

Social Order

**SUBURBIA
-A RELIGIOUS PROBLEM?
Victor C. Ferkiss**

February, 1960
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"CHANGEABLE" NATURAL LAW
•
FEDERAL
REGULATORY AGENCIES
•
DYNAMIC PRUDENCE
and
FOREIGN POLICY
•
NEW NIGERIAN ELITE
•
BOOKS • LETTERS • COMMENTS

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... just a few things:

THE "CHANGEABLE" NATURAL LAW

EDITORS, it has been observed, have wastebasket minds, the result of the myriad and disparate reading they do. The heap of reviews and newspapers and press releases and announcements accumulating in our office is a matter of dismay to the janitor. Sometimes, surprisingly, a fruitful nugget of information or an inspiring idea is salvaged from the debris.

Such a bit often turns up in the most unlikely places. Thus, in the current issue of the *Review of the International Catholic Co-operative Centre*, published from 34, rue Edkenburg, Wilsele - Louvain, Belgium, one encounters a discussion on the meaning, scope and methodology of Catholic social teaching by Father Eberhard M. Welty, O.P. The writer is professor at the Albertus Magnus Academy at Walterburg, near Bonn, editor of *Die Neue Ordnung* and author of the *Sozialkatechismus* to be published by Herder and Herder of New York in four volumes as *A Handbook of Christian Social Ethics*. The viewpoint expressed and the argument employed by Father Welty parallel those found in a brilliant article by Fathers Philip S. Land, S.J. and George P. Klubertanz, S.J., "Practical Reason, Social Fact and the Vocational Order," in *The Modern Schoolman* of May, 1951.

Noting that Catholic social teaching is a social morality, not an economic nor a social science, Father Welty observes that its tool is reason, functioning correctly and enlightened by faith,

guiding man and inducing him to make his choices with discernment on the moral aspects of economic and social questions, "choices conditioned by time and circumstances." The process involved is that of practical reason whose subject matter, according to Aristotle (*Ethics* i, 1094b 15-20) and St. Thomas (*In VI Ethicorum*, lect. 3), is such that we cannot deduce detailed, specific conclusions with certitude, since the objects of human action are contingent.

A rational program of action involves a choice of means and, since these means deal with the individual and the contingent, they cannot be deducted from general principles, for these deal with universals.

For non-Catholics one of the more irritating and certainly more confusing features of Catholic writing on social matters is our regular reference to the natural law. The fault must in part be ours, since so acute a scholar as Professor Niebuhr thinks that by natural law we have in mind some general, abstract legal code or enactment, complete in all its details and merely needing to be discovered by the human mind. Father Welty helpfully clarifies the truth in observing that:

The source of natural law is not only human nature in general, but also the concrete state of human nature at a given moment in history, as well as the "nature of the situation," that is to say, the exterior concrete circumstances.

There are to be sure the sweeping truths of morality, true for everyone

and for all time: "Good is to be done and evil avoided." There are conditioned obligations, judgments arrived at by a simple application to some human action and valid for all humanity: "Oaths are to be kept." There is a third set of judgments, made in applying the natural law to the different circumstances of time and place and to the actual economic and social situation: "The income tax imposed by the 86th Congress should be faithfully paid." Pius XII contrasted this "changeable" natural law with the more fundamental and immutable exigencies of human nature. Speaking to the Italian Center of Studies for International Reconciliation on October 13, 1955, the Holy Father remarked:

Moreover, the study of the history and the development of law from ancient times teaches that, on the one hand, a transformation of economic and social (and sometimes political) conditions demands also new specifications of the postulates of the natural law with which the formerly dominant systems no longer square and, on the other hand, that amid these changes the fundamental exigencies of human nature perdure and are transmitted with greater or less urgency from generation to generation.

In Father Welty's judgment:

One of the principal tasks of Catholic social doctrine today should consist of exploring this changeable natural law, and examining whether the natural rights affirmed by sociology and other modern sciences are truly consistent with nature, thus representing a value from the point of view of the natural law.

This task calls for what St. Thomas named "a full consideration of differing circumstances." Such an intellectual posture leans less on the deductive process; it depends largely upon observational experiential procedures. To quote Land and Klubertanz:

In brief, the theory of practical reasoning

according to Aristotle and St. Thomas states that the practical sciences derive their matter from experience. . . . [They] must stay close to reality; they cannot indulge in elaborate constructions of ideal situations. In as much as they attempt to forecast, they must be guided by experience even in prediction.

Nor should the practitioner of Catholic social teaching forget, as Father Welty hints, that reason tends to be self-serving of personal, political and economic preferences and that, as Land and Klubertanz note, "temperament and habit enter to incline the intellect to stress one set of principles or facts more than another."

Surely, no one will accuse St. Thomas of moral relativism because he wrote: "It is necessary that the precepts of the law be diversified according to different kinds of communities."

Nor should Johannes Messner be listed (and condemned) as a conservative because he wrote in his magistral *Social Ethics*:

Social criticism must be realistically-minded. It must bear in mind the fact that any particular social order with its complex institutions and principles is the product of historical processes and that it cannot be simply exchanged for new ones like cast-off garments. Thus the first task of social reform is to discriminate, to remove only what is functioning badly, and to conserve and strengthen what is functioning well.

Catholic social teaching is not a "prophetic" discipline. It analyses the dynamic contingencies of contemporary society in a perspective of a Kingdom which, on Christ's assertion, will not be achieved on earth. Disappointing though the news may be, it is not revolutionary and cannot be, since it measures all things in charity as well as justice and continues the heritage of Christ who knows what is in man.

All of this is by way of saying that Catholic social teaching in America must not begin with solutions pre-packaged for other situations. European workers may feel that co-management gives them class status (one hopes so: it doesn't, as it works out, give them anything else) but the flat fact is that the American trade union movement wants none of it.

It may produce a glow of satisfaction to feel that you have Pius XI on your side in quoting:

We deem it advisable that the wage-contract should, when possible, be modified somewhat by a contract of partnership. . . . In this way wage-earners are made sharers in some sort in the ownership, or the management, or the profits.

Pius XII, however, made it clear on June 3, 1950 and September 14, 1952 that the phrase does not import "the right of economic joint-management" nor "the right of the employee to participate in the ownership of the operating capital and its corollary the right of the worker to participate in decisions concerning operations of the plant." The notion of effective ownership through stock purchase, moreover, seems farfetched in the light of the economic realities represented by American corporations. Is it not significant that not once in the months of acrimonious debate did either the representatives of the steel workers or those of the companies suggest asking, even for its public relations effect, the opinion of the stockholders, the legal owners? The observations of James E. Carey, President of the International Union of Electrical Workers, were brushed aside at the annual stockholders' meeting of Westinghouse Electric Company last year. Mr. Carey felt that he was entitled to help shape company policy in

view of the substantial purchase of stock the union had made. The amount proved not enough to impress the Board of Directors even to the point of winning their attention. How large a sum that would have to be is suggested by the fact that no stockholder of American Telephone and Telegraph Company holds more than one-thirtieth of one per cent of the outstanding stock. One-thirtieth of one per cent of the outstanding stock happens to be \$1 million dollars. It is for this reason that I remarked when describing the distribution of property in the United States in our January, 1959 issue:

It might be in the interest of frankness to admit that the American economic system is rather a new thing for Catholic social thought to contemplate. Its sheer size presents problems of scale not hitherto encountered. The gross sales of General Motors for 1955, for example, were one-third larger than the national budget of France for the same year and almost one-fourth larger than the budget of the United Kingdom. And this prodigious mechanism of manufacturing and distribution rolls along with government intervention more limited than elsewhere in the world.

It is the consequence of this difference of scale and of structure in the American economy that, in the words of Pius XII, demand "new specifications of the postulates of the natural law," a task to which Father Welty summons us. He assures us:

Catholic social doctrine is no stranger to true progress of any kind; on the contrary, it claims that the needs, possibilities and resources of every age should be studied, used and improved; at the same time, it remains concentrated on the reality of social life, not in order to preserve at any price an outmoded reality, but to prepare the new age and guide the community on the way of goodness.

Such study must begin with analysis of the actual situation not with prophetic

utterances of dated documents in an argument that proceeds by progressive iteration. It is presumably such a study that has dissuaded the American hierarchy from supporting measures of public health insurance, though such a proposal was included in the speech prepared by Monsignor John A. Ryan for delivery to a Knights of Columbus audience in Louisville and which, by an historical accident, was issued on February 19, 1919, by the Administrative Committee of the National Catholic War Council as *Social Reconstruction: A General Review of the Problems and Survey of Remedies*. To brainwash a public audience by assuming that contemporary problems are identical with those Monsignor Ryan analyzed is to be guilty of a stultifying Talmudism found in its most ludicrous form in the "prophetic" wing of Marxism whose disciples are bounded to a dated document. Respect for the contingent order was mocked by an argument, elaborated in an article submitted to us, that every male worker, married or single, is entitled, and in commutative justice, to an annual wage of \$7,200. On the premise that every male is potentially the head of the family, the author imposed on the individual employer the obligation to pay that sum, it being the equivalent to "decent and frugal comfort" for the normal family.

This kind of literalism is a dangerous business for American Catholics. What answer is Senator Kennedy supposed to give when Bishop Pike asks him if, as a Catholic, he is bound to work for the establishment of the Industry Council Plan as promoted by John Brophy and the late Philip Murray? Or whether the Catholic candidate believes that the Securities and Exchange Commission is

doing its job adequately since *Quadragesimo Anno* declares that the bankers have "credit, the soul of the economic life, so firmly in their grasp that no one can breathe against their will"?

It is not and cannot be the function of social encyclicals — since they are addressed to the whole world, *i.e.* to various human communities — to establish much more than common goals and to clarify our basic ideology at the time of their issuance. It is for us to devise the particular means which will foster growth toward those goals in the American environment of 1960. Such an effort is better served by a knowledge of social fact than even by a perfervid loyalty to the Catholic social ideal. For institutional forms and behavior patterns (*i.e.* means) which worked well in the past or which function successfully in other societies are not necessarily apposite in present circumstances and in the United States. Moreover, ours is a dynamic society. Inevitably, then, we will need constantly to modify and adjust the means we employ toward the always distant goal of social justice. If we do not, the Catholic contribution toward a better social order will be rejected as was the platform of the British Labour Party in the last election. Committed to the past, it sloganeered to the young: "Ask Dad, he remembers!" The London *Tablet* editorial was the obituary for that approach. "Not Needed" was the title.

In the process of examining the American economy in the perspective of the "changing" natural law, we might profitably recall the observation of Professor R. H. Tawney: "Common sense and a respect for realities are not less graces of the spirit than moral zeal."

EDWARD DUFF, S.J.

SOCIAL ORDER

Catholics and Urban Affairs

DENNIS CLARK

THE DECADE of the 1960s will be an urban decade. The city life of our nation will expand and deepen, organizing more and more people into urban centers and ways. The impact of this urbanization and city change will be felt in every area of social life. Already the mayors of our major cities are calling for new methods, new tax structures, national transit coordination and a wide variety of federal and state services to meet new needs. Plans for a national department of urban affairs have been advanced. Groups such as the New York Regional Plan Association are preparing massive studies of what the coming years of urban growth will mean in employment, housing, education and public facilities.

During this same period of city expansion and renewal, Catholic social thinking and social action will, hopefully, emerge from its weak position in American affairs and begin to wield a telling influence upon the policies and programs that affect our community life.

It is no secret that Catholic social action in this country is not so much

a program or set of programs as the handiwork of various stubbornly committed individuals and small groups. There has been a good bit of criticism of Catholic social action, lamenting the fact that the movement has no policies to pursue; that there are principles and pronouncements in plenty, but no real definite policies, strategies or program objectives in the various areas of social concern.

Social action disadvantaged

Even if the validity of this criticism is conceded, its reality should not be surprising. The Catholic social action movement has been such a disparate, undermanned, partially organized and indifferently treated phenomenon that policy and program formation have been academic. If the director of a social action organization cannot even get the Catholic notables of his community to join his board, take an interest or be of

Mr. Clark is a staff member, Committee on Human Relations of the City of Philadelphia. His book, Cities in Crisis: The Christian Response, is to be published by Sheed & Ward in March.

assistance, the sheer paucity of personnel and resources makes the question of elaborate policy composition hapless.

For theoretical purposes, however, and in the hope that somehow during the next few years Catholics will be forced to come to grips with the immense social challenges presented to their ideals by our new technological urbanism, a consideration of social action policy for urban affairs should be undertaken. The following paragraphs are an attempt to initiate a discussion of just what the objectives of Catholic social action should be in the field of urban affairs, a field which includes the very active and complex areas of city planning, urban renewal, community organization and social service in the city environment. The presentation will be tentative and designed only to promote examination of urban problems in the light of possible Catholic influence upon them.

Catholics urban people

The overwhelming majority of American Catholics live in our strategic urban centers. They are relatively ill-informed and unorganized for social action purposes. As a group expressive of a distinctive social program relevant to metropolitan problems, they are practically inarticulate. In some of the big cities they participate feebly in the civic and government councils where public and institutional policies are formed. More often than not, they are estranged from this process. In the technical echelons they are rarely encountered in key positions. Catholics as an ideological group in the large cities are passive amid the current rapid changes and city rebuilding programs. Although this description would bear qualification, it accurately indicates the context of any

Catholic social action interest in urban affairs. Assuming this description of our present situation as largely accurate, we can proceed to construct some framework of social policy for this area of concern.

Two characteristics

The field of urban affairs has two prominent characteristics that merit primary consideration. First, it is an amazingly complex area of social judgment. The sheer size of the issues to be dealt with, and the complicating effect of rapid change and technology confer a complexity that permits wide room for disagreement. Second, the issues that are the subjects for public analysis and social inspection are to a great extent already defined. The prevailing definitions, however, are in terms of secular values, technological considerations, utilitarian economics and an ambiguous humanism. Christian social principles, religious values and a view of a social order that is not tyrannically dominated by economics have little influence upon the definition of issues, the setting of priorities or the execution of programs.



In the light of these facts, it would be peremptory and naive for Catholic social action to have its thin contingents invade the field with pietistic trumpets sounding and the banners of grievances flying. The first need is for involvement and understanding. Involvement implies memberships upon boards, commissions, study groups and participation in professional associations and influential societies. The difficulty of such a task, not least in view of other commitments, is obvious. It will not be discussed here, since we are confining ourselves to an examination of possibilities. Once sufficient involvement is achieved, knowledge of the field would follow upon conscientious participation.

Christian perspective

The next step toward policy formation would be the evaluation of urban social problems and issues in the light of Catholic social principles. The Christian view of man and family life, the Christian view of property and its use, the regulation of social and institutional life according to Christian values would serve as the standards for the evaluation of urban renewal, new building and social development programs that are currently proposed. The encyclicals, the opinion of Catholic social scientists and the analysis of particular cases or projects would all be tools in this process. The superficial analysis and the technical analysis that prevail today would have to be supplemented by a Christian comprehension of urban issues that would go to the root of matters.

For instance, where the secular planner would speak of "neighborhood relations," we would refer to community, a term with deep Christian meaning.

When housing was discussed, we would emphasize the controlling ideals of family life. To discuss recreation there must be a philosophy of leisure and its functions. Zoning, population density and land use would require consideration of human values as they relate to property and its use. Employment problems must be viewed, as they so seldom are today, in the light of the meaning of work and the creative and therapeutic values of labor. Traffic raises the whole question of mobility and its effect upon man and his psychological orientation. This entire process would involve the constant reference of issues to the traditional wisdom, system of ethical analysis and religious concern that are the heritage of Catholic social action. It is a process that would call for the utmost intellectual honesty, prudence and the exploitation of all available Christian knowledge and experience.



Following upon this evaluation, Catholic social actionists in the field would be able to redefine the major issues in terms of their significance as seen in a Christian perspective. They could set up their own priorities based upon this redefinition. It does not seem possible that this task could be accomplished without a much more intensive and sustained Catholic effort of criticism and discussion than is presently foreseeable.

able. If a Christian scale of issues could be arranged, however, it is probable that the contrasts with the secular-oriented civic goals and policies would be immediately evident. Based on my own experience in housing and urban renewal circles, this conclusion seems patent.

Christian dissent

On such great issues as the acceptance of the economic bases of our cities as they are now structured, I think there would be considerable Christian dissent. The economic organization of our urban life with its lack of consumer representation, its disordered expansion and wasteful practices is thoroughly questionable for the Christian. Nor should any sacrosanct bridle about the free enterprise system divert us from putting the economic base of the technical industrial city to the test of Christian inquiry. On this issue of the economic base of the city hinges much of the subsequent consideration of urban affairs. The best guides for our positive orientation here remain the encyclicals.



In a conjectural spirit it can also be advanced that a Christian view of urban life would endorse the following:

1. Restoration to the urban environment of the natural elements of sun, light, pure air, greenery, water, etc.

These elements are anterior to the technological and mechanical achievements in providing a basis for human life. They are necessary for the biological and aesthetic orientation of man, and it might even be argued that they are necessary for a mature appreciation of the sacred liturgy. Papal statements in recent years have alluded to the priority that human and natural conditions should have over technical and mechanical considerations. On this issue the Christian might exceed the secular urban analyst in the degree to which emphasis must be placed upon the restoration of a tolerable natural environment.

2. In matters of community development and housing the importance accorded to the family by Christian teaching would lead to a strong partisanship in favor of familism. The construction or renovation of community life would be keyed to providing optimum conditions for family development and the structures and facilities would be dedicated to re-enforcing family solidarity. It is not so much that families would be supported by the environment but that the ultimate goal would be stable, integrated families freely associated at the local community level into effective community groups. The tendency would be toward conditions that favored large families, extended families with clear patterns of parental control and joint family activity.

3. As a general policy in the allotment of resources and in the scheduling of programs, a Christian view of urban needs would no doubt insist that the problems of the poor and the underprivileged be given priority and special consideration at every juncture. The re-

distribution of wealth and opportunities so that the urban poor and minority group members could achieve humane standards of living would be one of the dominant aims of Christians in this field. The demands of privileged groups, groups with political skill and leverage and groups with worthy but diversionary projects would all have to be contained. In an affluent society, the will to serve the poor would have to be made superior to lobbying and frustration.

4. According to Christian teaching the principle of subsidiarity confers upon each social group its specific orbit of influence and freedom to function, neither adding to nor subtracting from the proper social powers that groups at various levels exercise but regulating them for the common good where necessary. This principle would have to be brought into play in the urban environment. In addition to the establishment of proper relationships between economic groups, government groups and various civic elements, the appropriate organization and powers would have to be encouraged in neighborhoods and sub-groups that stand between the single urbanite and the bureaucracies of the mass city. This principle would also have to be followed in solving the question of the development of metropolitan structures for handling the obvious problems that extend across city and township borders. The application of the principle of subsidiarity to the disordered and often elephantine group life of the cities would require highly skilled consultation and prudent judgment.

The projection of informed Catholic leadership into the arena of industrial urban life can only commence on a significant scale when some such process as that described in the previous para-

graphs has been undertaken. It is a process for which the present social action network and social science fraternity among Catholics is poorly prepared. The challenge, however, is there. It is at once local and national.

Challenge to the church

The problem of urban restoration confronts the Catholic Church at every step in its educational, missionary and pastoral responsibilities in the major dioceses. In working for the dignity of man and the integrity of social institutions in the technical industrial cities of our time, Christians will be striving to preserve the standards and outlook of Western culture that their brothers in the Roman Empire sought to uphold in the turbulence of the ancient world. We must make our minds and abilities worthy of this task.

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COMMUNICATION between economists of the East and the West is difficult, and the opportunity to hear trustworthy views of an economist working in a socialist system is seldom found. Recently I had such an opportunity; the novelty of the experience may make it worthwhile to record these impressions. The occasion was an hour's lecture at Cambridge University by Oscar Lange, Deputy Director of Planning in Poland, and formerly a professor of economics in American universities. Lange has gained distinction by his work on socialism, his best-known contribution being *On the Economic Theory of Socialism* by Lange and Taylor. The lecture at Cambridge was well organized and delivered with the assurance of an experienced speaker in perfect English.

Lange confined his discussion to the socialist economies of Eastern Europe, including Russia. Most of his examples were drawn from Poland but allusions were made to other countries; he indicated that the points made were applicable generally.

A division must be made, Lange noted, between planning and management. Planning might be said to handle the problems of macro-economics; management those of micro-economics. Planning should perform three specific tasks:

1. Determination of the rate of accumulation;
2. Direction of investment;
3. Stabilization of the general price level.

Planning could assume additional tasks but the impression was given that Lange did not favor this, nor was it the present fashion.

"How little of

Socialist

The socialist economies are now in the second of two stages through which they have passed since the end of World War II. The first stage emphasized the production of the means of production; the second, the production of consumer goods. In making the meaning of these stages clear, Lange said he had no hesitancy in using the analogy of the war economy. This is widely understood, for even in capitalist countries during a war the use of all resources is planned to achieve a paramount objective, winning the war. So in socialist countries planning has been directed toward a paramount objective, increasing the means of production or, later, of consumer goods.

Execution of the plan is the function of management which is organized by appropriate categories of industry, such as the chemical industry, the electric power industry and others, each of which is headed by an officer referred to by Lange as a "minister." The parallel between the minister and the president of a large corporation under capitalism was pointed out. Each minister has a council of workers composed of the members elected by all the workers of the industry. This council is parallel to the board of directors of a large corporation. The council meets regularly and decides general matters of policy to

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the revolutionary there is in it!"

Economics on View

WILLIAM F. KENNEDY

be carried out by the minister. One of the important jobs of the council is to distribute any bonus received for the year's performance.

To retain his position, the minister must make the planned profit. It is expected that he will do better than this and earn a bonus for his industry. At first the bonus system ran into some difficulties, Lange explained. It was found that almost every industry was exceeding its target by just about five per cent. This became an occasion for mutual congratulations. The planners were seen to be making excellent forecasts and the managers were more than meeting their quotas. But the more perceptive saw that the results were contrived: The managers were playing it safe by not going all out, lest next year their quotas be set uncomfortably high. The bonus system was reformed and now requires not only an excess beyond the planned target but an increase in profits over last year's. Furthermore, prices are centrally fixed for all items of input and output; to get larger profits it is necessary to make and sell a larger output. In this way incentives are provided that stimulate growth.

If a minister fails to make a profit (and apparently there have been some cases although allegedly only a few), he

is replaced. Lange said that the closest parallel to this under capitalism is bankruptcy of a large corporation. In each case a new manager is brought in who attempts to make the best possible rescue of resources and to reorganize the enterprise on a sound basis.

Lange mentioned some new techniques of planning. Among the more popular was mathematical programming. Lange's attitude was that of many older economists throughout the world: this was a good activity for the young and they should be permitted to grind out their results but these should be reviewed with great caution. Policies finally adopted should be those that good sense and sound training (minus the mathematical process) would have discovered in most instances.

Similarly, no great mystery should be allowed to surround the question: How should we plan the direction of new investment? Current practice is to plan centrally about 70 per cent of new investment. The balance is made by the particular industry, through its minister and council, from accumulated profits. This may be used for such purposes

Professor of Economics at the University of California, Mr. Kennedy is doing research this year at Cambridge on a Guggenheim Fellowship.

as remodelling a factory or for purchasing some minor items of equipment. It is a useful device because it obviates the red tape and the delay of getting approval of higher-ups. If 70 per cent or so of new investment is directed according to plan, the economy will move in the general direction desired by the planners. No complicated procedure is followed in selecting the particular industries into which new investment is to be directed. For example, the decision has been made to expand the chemical industry of Poland. It is based on nothing more profound than the simple facts that Poland has large coal resources and there is a growing use of plastics and other chemicals.

Trend toward decentralization

There has been a trend in recent years, Lange noted, toward decentralization. This takes different forms. In a large country like Russia geographical decentralization has developed; in a small country like Poland there is less need and scope for this; decentralization there has accordingly taken other forms. One example was cited earlier: decentralization of decisions on a portion of new investment.

There was no question and answer period at the end of the lecture. This was the only lecture I attended at Cambridge that omitted it, often the most useful part of a lecture program because the Cambridge students have the knack of probing the weak points. A question and answer period, however, may have created an atmosphere of tension and reduced the effectiveness of the speaker. This kind of contact between economists of the East and West, even with its limitations, is better than none. It may eventually lead to full discussion.

My immediate reaction was: How could anyone work up a revolutionary fervor for this kind of economic system? How little of the revolutionary there is in it! The choice spirits among the listening students who sought the new, the exciting, the wide horizons of promise for the individual and society had little here to feed on. (Lord Keynes reported that the "choice spirits" among this same student body were embracing Communism back in the 1930s. One of his motives for developing the *General Theory* was to meet this challenge.) If these students seek something new and are reaching for wider horizons of thought and action, they would do better to turn to the American experiment. This is an economy of vast promise which is not yet fully tested and proved. The socialist experiment described in terms of its economics appears highly rationalistic, utilitarian, and routine; as such, it has a 19th century flavor. In contrast, the American experiment has an air of recklessness, and even danger, in allowing the individual so much scope to set directions while, at the same time, maintaining balance with a social welfare program that in its real benefits far exceeds the accomplishments of the most advanced socialist country.

My next reaction was that trial and error was freeing socialist countries from some dogmatisms and leading them to practices and institutions earlier developed in the West. One of the main arguments for the market system is that its decentralized decisions are more efficient than the centralized ones of planning. The need for efficiency is forcing the socialists to accept this in practice, although it is contradictory to their claims for the virtues of centralization. Furthermore, the scope of socialist plan-

ning is tending to be confined to the aggregates of macro-economics, the established pattern for planning in the mixed economies of the West. Finally, provision of consumer goods is becoming the paramount objective at a time when some economists in advanced societies of the West argue that this goal has been reached and the affluent society can now add new social goals to its quest.

The recent developments in the socialist economies of East Europe may be described as a re-discovery and an application of economic truths long known in Western economies. But this is a one-way street. The Eastern economies have failed to make any original discoveries or contributions which the West might profitably adopt. There may be one possible exception to this: the participation of workers through their councils in broad matters of industrial policy. There is no reliable evidence on what this institution has contributed to a better economic life but it might be worth investigation to determine whether the experience with it has any lessons for the USA. Yet even this idea is not an original contribution of the Eastern economies. Lord Keynes, after a visit to Russia in the 1920s, said that socialism would produce no economic innovations. Lange's lecture more than 30 years later gave no reason to revise that judgment.

Finally, my impression of Oscar Lange as economist was that he maintained the traditions of the profession by giving an honest and objective report. He made a contribution by providing the outsider some insight into how contemporary socialism looks from the inside.

FEBRUARY, 1960

Symposium on Humanism

Behind Marxism is a philosophy of what man is and for what he exists. Behind Christianity is also a philosophy of man and his destiny. These two ideas of man are just as much at war as the opposed political or economic systems of the Soviet and of the Christian West.

Moreover, no dream of social order can be practicable unless it is based upon a clear and realistic understanding of what and why man is.

So crucial is this question of man that SOCIAL ORDER devoted an entire double-number (the May-June, 1953 issue) to an exposition of this pivotal question. Copies are still available.

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THE SEARCH FOR THE NEW MAN	<i>H. A. Reinhold</i>
MARXIST AND SECULAR HUMANISM	<i>James Collins</i>
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DURING THE DECEMBER ELECTIONS in Nigeria, the dominant political figures of the country put on a real show to sway voters to their banners. Techniques of electioneering common to the West—even to the use of a helicopter hovering overhead, lettered with slogans pushing the Action Group cause and ferrying Western Region Prime Minister Obafemi Awolowo from one speaking engagement to another several times a day—were employed in full force. The customary cocktail parties, rallies, cheering assemblies, mobile loudspeakers and shouting followers roaming the streets, together with the more acrimonious haranguing of strident political speeches, marked the occasion and gave the masses an opportunity to see a segment of those who stand at the apex of their new upper social class in action.

This phenomenon is representative of the great flux going on in Africa and reveals that within the rapidly changing social-political matrix, now characterizing that continent, a non-traditional leadership group has come into being. Emerging and thriving as a consequence of the expanding urban centers, where the group is largely located, this new human segment is still in its formative stage. An upper crust social class that is and will continue to provide the direction for the masses of non-literate African peoples for years to come, it is important that it develop a cohesive character if it is to build strength and continue as the vanguard of African development. In order to ascertain some-

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"... this corporate

New

thing about this aspect of this new urban African elite, the authors made an extensive study of this growing social element in the largest populated entity on the continent, Nigeria, in 1957-1958.¹ Some of our observations concerning group consciousness among the Nigerian contemporary urban elite reveal the following features.

Because of the great diversity of members of the elite in Nigeria, there is some question as to whether there exists among them any "we" feeling. Some years ago the old, traditionally-respected Nigerian families in the urban centers formed a select group. The children of these families played together, attended the same or comparable schools and were seen at the same parties and other social affairs. The parents likewise banded together and associated largely among themselves. Their first social clubs were organized by the few highly educated men who headed these families, chiefly representative of the professions, doctors and lawyers. At that

¹ Material in this paper is based on research in Nigeria done under a grant from the Ford Foundation and assistance from the Crossroads Africa Project. For the latter see Walter Stinson, "Crossroads Africa," *World Student*, published by the Maryknoll International Student Committee, Maryknoll, New York, January, 1959, issue.

consciousness is yet to be made real."

Nigerian Elite

M. M. and H. H. SMYTHE

time the British barred Nigerians from their clubs with the result that the latter developed exclusive organizations in which they might meet and enjoy their similar interests, tastes, and family background. The Island Club of Lagos, one of the best known social clubs in Nigeria, began some years ago with a roster containing only the outstanding Nigerians of the day.

But the expansion of urban centers, the opening of new opportunities to Nigerians in general, the ever-increasing number of highly educated individuals, opportunities to study abroad for ambitious but poor young men, plus the increasing Nigerianization of positions of importance in government and business created a rising new group in the urban areas.

These newcomers did not come from a common social background and tribal derivation, as was the case with the earlier "old" families; they derived from widely scattered geographical areas both within and beyond the regions of even Nigeria itself. This multiplicity of beginnings, plus the variety of outlooks and points of view they represented, brought a motley mixture to what was once a close group of traditionally well-known families of prestige, position, and

status in what was also then a much smaller urban community.

In addition, their higher training had been secured in a wider variety of institutions overseas. Almost all of the "old" family members who had gone abroad to study went to England. Thus, they acquired the tastes, habit patterns, and attitudes of the British, along with British manners and speech; they looked to British institutions and patterns as the best and finest, as, in fact, the only way.²

But the members of today's elite were not entirely conditioned in this fashion. Products of the most turbulent years of change and nationalistic fervor in Nigeria, their general tendency was to be consciously as anti-British as possible in

² This is a practice common to people in most colonial territories throughout the world, as well as to most subject peoples elsewhere; to set up as their goals those of the metropolitan or dominant powers in the early days of their subordinate status; they knew no better, and domination by outsiders demonstrates the superiority of the latter's way. Thus, if one would move out of the subordinate role, the way up is to become as nearly like the overlords as possible. Consult Kenneth Little, "The African Elite in British West Africa," in A. W. Lind, *Race Relations in World Perspective*, Honolulu, University of Hawaii Press, 1955; or M. J. Herskovits, "Some Developments in Sub-Saharan Africa," in Calvin W. Stillman, ed., *Africa in the Modern World*, University of Chicago Press, 1955.

a show of national spirit. Further, some of these Nigerians were trained in the United States, where they learned cultural values and ways which differed in social, economic and political respects, both in kind and degree, from those of the British. Especially new was the conscious repudiation of snobbishness. These American-educated Nigerians, who identified themselves with a more open type of social complex, through sheer numbers relegated the "old" family tradition to the past. Conservatism was not a characteristic of their training and experience.

American influence

Instead, the ambitions of these young Nigerians had been whetted by the rags-to-riches myth, a few examples of which were still to be found. The maxim, "It's not from whence you come but where you go that really matters," seemed very much a reality and one perfectly suited to Nigeria, which needed to prize all available talent and training. These young Nigerians saw in America the acceptance of mass education and the rejection of an intellectual elite. Their experience in both Nigeria and America favored the acceptance of a person for what he was, not for who he was.

This sort of personal experience was added to a surging social matrix fired by the political changes resulting from the Second World War. Meanwhile, Nigerians who had gone to Britain had become a part of such organizations as the West African Students Union, which was dedicated to the eradication of colonialism. There, too, they had associated with a membership that did not come from Africa's "best families." So

today in Nigeria the elite come from a tremendously diverse geographic, social, political, economic and religious background. This group is yet too varied, its sense of leadership responsibility too new and its collective mentality too unformed for it to have much group consciousness. The elite in any given city know one another either personally or indirectly; at the very least they have heard of each other. But, as yet, this is about as far as group solidarity goes.

Just as Nigeria is affected by regionalism, sectionalism, tribalism, minority group dissension and stress upon local or regional interests rather than by national unity, so it is with the new elite. They, too, are influenced by all these divisive forces and reflect a similar pattern as a group. Unaffected by sentimental roots of common class heritage, without the adhesive power of the British "old school tie," each seeking to climb as high as he can go, the new elite of Nigeria is a long way from developing into a group with a core of allegiance to common goals, acceptance of a single code of etiquette, respect for basic traditions, and a sense of belonging that welds them into an entity.

For the Nigerian elite this corporate consciousness is yet to be made real. There is no doubt that it will come, however, for there are signs—few and shadowy so far—of its eventual growth, as the cities take on more definite outline and permanence, as neighborhoods of substance containing like-minded Nigerians arise and as organizations of various kinds pull together the professionals, the rich, and the better educated, so that they come to concentrate as a group upon their common interests.

SOCIAL ORDER

Dynamic Prudence and Foreign Policy

WILLIAM B. NEENAN, S.J.

CAN THE DEMOCRATIC SPIRIT cope with crisis? C. Northcote Parkinson, for one, is skeptical. The author of the widely acclaimed *Parkinson's Law* believes that democracies from the time of ancient Athens onwards have manifested one fatal flaw: collapse in the face of crisis. In his new book, *The Evolution of Political Thought*, Professor Parkinson suggests: "... the Athenian failures and mistakes were in precisely the fields of activity in which later democracies have also tended to fail; that is to say, in colonial policy, foreign policy and war."

If Parkinson is correct, our present era should provide ample confirmation of his disquieting observations. Ever since the declaration of peace in 1945 our democracy has been in a continual state of crisis: Berlin blockade, Russian atomic breakthrough, Korean invasion, Sputnik, Nasser's nationalism, and again Berlin. Decisions have been made: Berlin airlift, Strategic Air Command, limited war, massive retaliation, Lebanese intervention, and now the controversial "plateau of defense spending." We can well leave to history the final judgment on these choices. But to dis-

prove the existence of some law operating in the rise and fall of democracies, we must face up to the momentous choices now confronting us. And for this we desperately need prudence.

It may startle some to hear prudence designated as a virtue needed in a world that has seemingly placed its hope for peace in the deterrent power of nuclear stockpiles. Some may even suggest that what we need least is prudence. These would identify prudence with obsequiousness, for example, the pilgrimage of a Chamberlain and Daladier to Munich. They would demand more bravado in our foreign policy and would be heartened by the yankee-doodle jingoism of a former Senator: "If the American Legion had charge of our foreign policy, we would have gone into Cuba within 24 hours of the capture of 40 Americans by that tinhorn rebel, Castro." Most Americans deplore such outbursts. They see the fruit of such "Marine diplomacy" in the anti-Gringo riots in Panama. But even so, we are all tempted to confuse prudence with cow-

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ardice, to oppose fortitude and prudence. This is a serious mistake. Prudence is not synonymous with over-cautiousness. Rather, it is the virtue which decides precisely when a rattling saber or an olive twig is the more effective weapon of national policy.

The exercise of prudence may presuppose the possession of the other virtues, whether they be fortitude, loyalty to country, or love of God. But in the concrete order it is prudence which decides what is brave, patriotic or love for God. Practical choices are always concrete. For example, should our foreign assistance loans carry the "Buy American" label? Is the requirement moral in itself? Does it promote national policy? Is it feasible? Prudence, presupposing the common good as the goal to be reached, must answer these and similar queries.

Role of prudence

The urgent importance of prudence today arises from the complexity and gravity of contemporaneous problems. Patriotic intentions or religious zeal by themselves are not sufficient. This was exemplified in an unfortunate manner by the group of Catholics who boycotted the annual children's drive in behalf of the United Nations International Children's Emergency Fund. As a spokesman for the boycotters put it, "Do you want to give money to the Chinese Communists so they can turn it into guns and shells to destroy the people on Quemoy and Matsu?" The problem is not so simple. Factors other than possible communist advantage are involved, the demands of charity toward hopelessly destitute, innocent children being an obvious consideration. As Father Bruckberger has recently pointed

out, "all or nothing" is an excellent principle in the realm of mysticism; in political life it is sheer nihilism. Apparently this is also the judgment of Pope John XXIII. He recently doubled the Vatican's annual contribution to UNICEF.



Despite "agonizing reappraisals" and "great debates," our basic military posture remains primarily one of reliance on the deterrent and retaliatory power of the Strategic Air Command or in Secretary Dulles' famous announcement of 1954, "the capacity for massive retaliation." But consider just a few of the complexities involved in such a policy. Is obliteration bombing, such as occurred at Hiroshima and Nagasaki and would occur at Moscow and Peiping in case of actual "massive retaliation," morally justified? Can the American economy support a more ambitious defense program or is our present "posture" the only practical way to have "security with solvency"? Does this policy guarantee security? Is it effective for meeting the problem of localized trouble spots, as Indo-China, Quemoy and Berlin? Or is more flexibility desirable, as Thomas E. Murray, Father John Courtney Murray and Admiral Rickover variously contend? Is continued experimentation with radioactive devices imperative for the success of this and other policies? How do these experiments affect the major powers of the Asia-African bloc? Would Congress, the newspapers, and the electorate accept

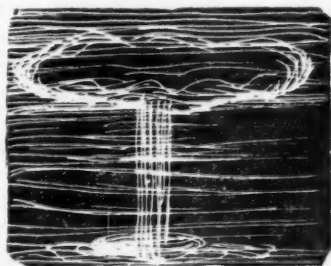
the economic hardship and personal inconvenience of an alternative, more "conventional" arms program?

Patriotic Christians sincerely offer contradictory answers to these questions. This is understandable. Nebulous goals must be concretized in confused and changing situations. Hence, the virtue of practical choice, prudence, and not religious conviction nor pride of country, is the immediate determining virtue of political life.

Unfortunately, prudence cannot be taught like a modern language, or atomic physics. We cannot be assured of prudent statesmen merely, as Chinese emperors vainly hoped, by drawing up a curriculum, issuing textbooks and scheduling civil service examinations. Of prudence, as of all moral virtues, it is true that knowledge, especially "book knowledge," is not virtue. But this is not at all to deny the indispensable role of knowledge in a prudential decision.

International life is an ever-seething tumult of institutions, events and individuals, each requiring intelligent attention if they are to be properly indexed. A prudent policymaker must be attuned to these existential changes if his recommendations are to be meaningful. The dramatic deterioration of our position in the Middle East prior to our 1958 intervention in Lebanon seems to be directly related to our underestimation of Arab nationalism. From the time of the Aswam Dam negotiations in 1955 to the Lebanon landings our policy was supported by what now appear to be inadequate intelligence reports. For example, it is universally admitted today that the State Department had no prior knowledge of Kassem's mid-summer 1958 coup in Iraq; and it was only

several days after the event that our officials fully realized the relatively broad, popular nature of the movement. Again, when Prince Faisal through palace intrigue assumed actual governing authority in Saudi Arabia in 1958, Washington understandably sought clarification. Our hardpressed ambassador was forced to relay to his superiors an analysis of the situation based on conversations with the Master of the Royal Garage! No wonder our policy in that critical area often seems as shifting as the sands of the Arabian desert. And yet on even more tenuous information, how often do we hear confident, insistent demands, "Send in the Marines," "Pound 'em with the fleet" or "Stop rat-holing our tax dollars for those foreigners."



But as Chester Bowles has said, "the new dimensions of peace" require of us more than competence in pre-1914 intelligence work. No longer will traditional power politics and easy familiarity with standard military manuals suffice. Today events move swiftly. Guinea became an independent nation in September, 1958. No ambassador to this new nation was appointed by the United States until May, 1959. In the meantime the Guinean leader, Sekou Touré, had asked the Liberian government (since there were no diplomatic relations between Washington and Conakry) to request small arms for its

police from the United States. Washington did nothing. In May, 1959, several thousand small arms arrived from Czechoslovakia. Africa south of the Sahara is still friendly to the United States. But we should not be careless with this friendship.



What is called "foreign aid" in the daily press offers a hopeful example of the evolution of a concept in the face of dynamic international realities. Beginning with "lend-lease" in World War II, "foreign aid" has passed through such diverse stages as post-war relief, Marshall Plan assistance to Europe, defense support for the Formosan and Korean economies, military assistance, technical assistance to underdeveloped countries; it has finally arrived at pure economic development assistance in the Development Loan Fund. "Foreign aid" has evolved from outright grants to long term loans; under an International Development Fund as under the recently enlarged World Bank, the emphasis shifts from unilateral to multilateral development assistance. This new dimension has recently been emphasized by Secretary Anderson's insistence that West Germany, Britain and Japan share responsibility for supplying development capital for the capital-poor nations. So swift has been the transition from one stage to another that many supporters and opponents of "foreign aid" are still arguing the merits of a Marshall Plan type aid which was terminated six years ago. Fortunately, official thinking in this vital area has pushed on, not waiting for some news-

paper editors who are still bundling the billions spent for World War II "lend-lease" and post-war relief with the millions in our current technical assistance program in one univocal bag marked "give-aways."

It was to meet precisely the need for dynamic policy formulation that the National Security Council was created in 1947. Following as it does a standardized Thursday morning agenda of staff-prepared policy papers, the Council processes an enormous volume of necessary detail work. It has even been claimed that a backlog of basic strategy developed by the Council carried the nation through the several inactivating disabilities of President Eisenhower. Intended as an instrument of responsible policy-making, the staff system, however, carries within itself the enervating virus of depersonalized irresponsibility. The chief glory of the staff system is its sum of collective experience which, like the electronic brains, can be "picked" for appropriate data. But as Walter Millis observes, staff system or electronic brain "... will operate with effect only after it has been asked the right question. The deepest problems of modern government are still not in getting answers; they lie in asking the right question." And here the individual, personal element is absolutely essential.

Is it possible that what is true for General Electric is also true for the United States? If so, GE's president, Ralph Cordiner, may have an important lesson to teach: "GE has no place for committees as decision-making bodies. A committee moves at the speed of its least informed member and too often is used as a way of sharing irresponsibility."

The basic, significant question must

SOCIAL ORDER

always be posed and decided by personal judgment. Moral, rational decisions are a function of individual, not collective or electronic, responsibility. In our government the President has this ultimate responsibility; others, cabinet members, military men and laymen, do and should share in this responsibility, at least to the extent of creating a national climate of conscious conviction. Neither field intelligence nor staff planning, to say nothing of sloganeering, can finally decide the big, basic problems such as the choice of a weapons' system, the form and size of "foreign aid" or the possibility and value of limited war. This area of final decision is a sanctuary reserved for responsible human judgment.

And here, in the realm of personal responsibility, is where Parkinson sees the fatal flaw of democracy. He thinks he has discovered a weakness endemic to all democracy: the lack of an effective will to survive. Nikita Khrushchev shares Parkinson's vision. Certainly not a teacher to be followed in all matters, the Russian Premier may have given us an unintentional lesson in survival. Speaking to Walter Lippmann, he referred to the period just ahead as the "last years of greatness" for the United States. The reason he gives for the demise of American ascendancy is our inability to make the necessary but difficult short-term choices. Mr. Khrushchev is preaching to us on the topic of moral stamina, the will to get down to what we know must be done. Similar warnings, such as Max Ways' *Beyond Survival* and Emmet John Hughes' *America the Vincible*, have lately become more frequent. Hans Morgenthau's comments are always trenchant:

Our government appears to act upon the

assumption, which the people are pleased to accept as self-evident, that our greatness is a kind of inherited, if not natural, quality owing to certain traditional ways of thought and action and to be perpetuated through the perpetuation of these ways.

He continues: "... our actions belie our knowledge. We know that we are fighting for our lives, but we act as though it could not be quite as serious as that."



Prudence, with its exacting requirements—thorough investigation, imaginative creativity, and inevitably, dynamic involvement—is the only answer to Parkinson's law. Unrelieved and persevering response to a challenge is, admittedly, wearisome and can be discouraging. When our best efforts may seem to fall short and our good intentions are ridiculed, we are tempted to withdraw in a huff of self-righteousness. To do so would be natural; thus the logic of Parkinson's prediction. In *Image of America* Father Bruckberger tells a story of the last Czar of Russia. "When on January 11, 1917, the British ambassador pointed out to him that his position was deteriorating, Nicholas remarked, 'Do you mean that I am to regain the confidence of the people, Mr. Ambassador, or that they are to regain my confidence?'" The ten days that shook the world were scarcely nine months away.

RECENTLY federal administrative agencies have won considerable front page attention. Professor Bernard Schwartz's potent disclosures based on his short tenure as Counsel for the Legislative Oversight Committee, the more recent exposé of television quiz shows, and the Food and Drug Administration's cranberry warnings have caught the interest of press and public.

Less publicized, but of far greater significance than such human-interest stories, is a memorandum accompanying the resignation of Louis J. Hector as a Commissioner of the Civil Aeronautics Board. Although his tone is complaisant and he displays none of the invective associated with some foes of administrative regulation, Mr. Hector's criticisms and suggestions are tantamount to advocating that the present concept of the federal independent regulatory agency be totally abandoned.

What he proposes, in essence, is that the powers held by these agencies be distributed among various governmental departments. The agencies' duty to establish "policy" and to promulgate rules and regulations would pass to purely executive agencies such as the Department of Commerce; their adjudicatory powers would be vested in administrative "courts"; and the burden of investigating matters, now under their supervision, would be transferred to other executive agencies, separate from those empowered to establish policy, such as the Department of Justice.

Proposals similar to those of Mr. Hector are not new. They were voiced before the agencies were firmly established and have been urged continually ever since. What is perhaps unique today is that these controversies over the desir-

The growing pains of a

Federal

ability of administrative agencies as a means of governing, long waged by lawyers and others professionally interested in agency action, have been bared to the public in a dramatic fashion. Unfortunately, all too often, the private citizen is unable to comprehend the issues at stake, the extent of the alleged deficiencies or the implications of the suggested solutions. This is neither surprising nor is it a reflection upon his intelligence. Administrative "law" is a vast and complicated subject, confusing at times even to those daily concerned with its operations.

The term, "administrative agency," is itself so broad and has so many connotations that it is practically meaningless. Federal "agencies" administer claims made by veterans, arrange for payment under social security, regulate radio and television, the railroads, air carriers and supervise numerous other areas of our economy. Other "agencies" grade agricultural products, establish standards for canned foods, guard the safety of drugs, administer loans to students, and perform thousands of governmental functions. In addition, there are numerous state and municipal "agencies" issuing licenses to physicians, barbers, liquor stores, handling claims brought under Workmen's Compensation stat-

relatively new form of government

Regulatory Agencies

FREDERICK M. HART

utes, and regulating various aspects of intrastate business. Since "agencies" are so multi-faceted, it is obviously misleading to use the term without some qualifications and explanations.

Attacks of various sorts have been made against practically all agencies, whatever their type, at one time or another. The Hector memorandum and much of the recent headline criticism, however, have focused on one type of agency, the federal independent regulatory commission. The first of these, the Interstate Commerce Commission, dates from 1887. Since then, comparatively few have been established, the total today generally considered to be nine including (in addition to the ICC) the Federal Power Commission, the Federal Trade Commission, the Federal Communications Commission, the Civil Aeronautics Board, the Federal Reserve Board, the National Labor Relations Board and the Security and Exchange Commission. The Hector memorandum addressed itself specifically to one of these agencies, the CAB, but many of his suggestions have been made in reference to all of the federal independent regulatory bodies; moreover, his underlying observations are applicable, with little reservation, to each of the above agencies.

To provide a context for any discussion of the present controversies, and to foster discernment in their evaluation, three avenues of inquiry are necessary. First, the history and the rationale of the agencies must be explored. Secondly, an understanding, at least in outline form, of the internal structure of the bodies and their relationship to the three primary departments of government, the legislature, executive and judiciary, must be attempted. Lastly, the basic disagreements which administrative law opponents have so long expressed should be considered. If this can be accomplished, it will provide a foundation, however rudimentary, for further investigation.

Practical considerations were responsible for the birth of the federal independent regulatory agencies. Prior to 1887, for example, railroads were subject to little control. What controls existed were the consequences of a few statutory mandates imposed by Congress or the limited civil rights given by the common law to those abused by predatory practices. These were wholly inadequate to insure that the railroad system would function in a way compati-

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ble with continued economic prosperity. Further regulation was desired by Congress. The type of regulation raised one issue; how it could be effectively implemented another. It was in answer to this latter inquiry that the ICC was established.

Traditionally, government supervision had been obtained first by Congressional action leading to the passage of a statute outlawing activity or imposing a positive duty upon those to be controlled. With a law on the books, the executive department, through the Department of Justice, had the duty to enforce it by investigating possible infractions and prosecuting violators in the proper court. The courts then completed the process by deciding which alleged wrongdoers were guilty and by meting out punishment to those found to have violated the mandate of Congress. But in 1887 Congress forsook this tradition. Its reasons for doing so are important; they still stand as the most powerful arguments for the existence of the regulatory agency.

Need for regulation

It was the insuperable problem of law-making to prescribe precise and comprehensive rules for much of the functioning of an evolving economy which made regulatory agencies imperative. Effective control of the complex railroad business, extending over the many and varied parts of the country, required a multiplicity of detailed regulations and rules. Some machinery was necessary for their establishment and the procedure for their adoption had to be a quick and efficient one. Congress, growing steadily in numbers, with its formal proceedings best designed for the establishment of broad policies, was ill

suited for such a task. There was, moreover, a need for specialization. Economists, accountants, engineers and experts on safety, scheduling, rates, equipment, traffic, etc., were needed to establish workable rules. Congress simply did not have the needed talent at its disposal, even if it could have handled the volume of legislation necessary to achieve its plans.

Power to police

Once the determination had been made that some delegation of legislative power should be made to a specialized agency, a logical step was to give the agency the duty and power to police its own regulations. Investigations could have a two-fold aim: They could lead not only to the possible prosecution of violators but also to the modification of existing standards. Furthermore, it was argued, enforcement would be more effective if investigation and prosecution of offenses were given to the governmental body which had the primary responsibility, within the bounds of a broad Congressional mandate, for establishing policy and the task of implementing that policy through detailed administrative "legislations." Any possible conflict between the regulating and prosecuting agency would be effectively avoided by combining the two functions. Another supposed advantage was that prosecutors would be specialists, trained not only in prosecuting but also in the area regulated by the agency; as such, they would be better equipped to handle the complex and technical issues bound to arise in such adjudications.

If the need for a specialized governmental unit to adopt detailed mandates and standards prompted the rise of ad-

ministrative agencies and led naturally to the inclusion of investigatory and prosecuting functions in the same body, what occasioned the incorporation of judicial powers in the agencies' structure? Perhaps it was the realization that controversies over their action would naturally arise within the agency itself and the belief that they might best be handled as a part of the agencies' everyday business. However, many other reasons have been noted for this step, some peculiar to a particular agency, others more general.



Unquestionably, one important factor was the belief that courts and courtroom procedures were too formal and inefficient for settling the type of controversy arising from the action of these agencies. Rules of evidence, for example, often require the exclusion of evidence of admitted probative value because of intricate rules designed to insure certainty of its reliability. Courts fully recognize that these rules sometimes exclude facts valuable to a full and complete determination of an issue. In balancing that detriment against the danger of receiving unreliable evidence, however, they prefer the security of certainty. The advocates of administrative procedure were of a different predilection, believing that decisions should be made on all the available probative

evidence. The determiner of facts was given the discretion of weighing questionable evidence and of according it such weight as he thought it worth.

One of the strongest reasons for substituting administrators for judges was the traditionally passive nature of the judiciary in Anglo-American law. Cases are decided upon facts presented to the courts by the parties involved. The duty of the courts is not to conduct investigations nor to attempt to produce evidence. It is, rather, to take the facts as brought to them (even though incomplete) and to decide the issues on those facts. More was expected from administrative adjudicators. They were to elicit information where it was thought necessary for a proper determination and were expected to work closely with the agency in the procurement of factual data.

The desire for specialization was also important here. Judges were specialists in the law, not in the technology of railroads, communications or air travel; hence, they could draw upon no fund of knowledge to assist them in the determination of complex issues requiring an understanding of the regulated industries. A further influence, applicable to some but not all agencies, is worthy of mention. Judicial antagonism toward some programs begun by Congress caused a certain distrust of the courts and a desire to reduce the possibility of their interference. A prime example of this is to be found in the history of the Antitrust legislation. When the Sherman Act was passed, it provided for prosecution by the Department of Justice in federal courts. Early decisions under the statute did much to vitiate its effectiveness; judges were either re-

luctant to adopt its philosophy or misunderstood its provisions. The FTC, in large part, was an attempt to assure effective implementation of Congressional aims in this area.

From the foregoing discussion it can be seen that Congress was attempting to establish an autonomous governmental unit having the duty and the necessary powers to control and regulate some defined area of human activity. As such, the agency has within it the three principal functions of any governmental body: legislation, execution and adjudication.

Obviously, an agency's legislative power is not plenary but is governed not only by the general precepts of the Constitution but also by the provisions of the statute establishing the agency and giving it power. It has been said that the agency is confined to "filling in the details" of that legislation, an apt definition of the theory behind its existence. Such a conception still leaves the agency with wide discretion in most situations since the specific wishes of Congress cannot be expressed in detail without denying the need of having the agency. Statutes must be so drafted as to allow the agency to make many of the determinations, using its special ability and competence in the field, not only to achieve the Congressional policy but also to specify it. The expression "in the public interest" followed by a scant and often cloudy definition of what Congress believes to be the "public interest" serves as a typical delimitation of an agency's responsibility. With this as its clue, the agency is left to meet particular problems with appropriate rules and regulations.

Since the statutes establishing agen-

cies often require a specific procedure to be followed in the adoption of rules and regulations, there is considerable variance from agency to agency. Without attempting to explore such differences (and avoiding also the Constitutional problems often raised in actual litigation), some general outlines of the legislative method may be formulated. Notice is customarily given by letter, publication in the *Federal Register* and press releases to trade publications of the agency's intent to promulgate new regulations. Informal conferences, interviews and expressions of opinion are sought from interested parties to aid the agency in gathering information needed for the drafting of workable rules. After a consideration of this information, a proposed regulation is published and is distributed to the affected parties. This may be followed by a public hearing or hearings at which evidence is accepted bearing on disputed points and after which, following an evaluation of the evidence, the regulation is finally adopted. Occasionally, judicial review is then available to any aggrieved or adversely affected party.

Agency legislation

As illustrative of agency legislation, Mr. Hector refers to the "Seven States Area Investigation" begun by the CAB in December of 1955. At that time the agency ordered the formulation of a plan to provide adequate local air service for the states of North and South Dakota, Nebraska, Iowa, Illinois, Wisconsin and Minnesota. The determinations to be made included, *inter alia*, the towns and cities which needed air transportation, the number and kind of flights between various points, and the routes to be flown. The selection of the

carriers to perform these services was not, at this point, to be made; this decision was left for later proceedings which Mr. Hector quite properly regards as being adjudicatory in nature.

The FCC proceedings provide another example of administrative legislation. The first determinations to be made by that body relate to the number, power and location of radio and television stations. This is its legislative function, one to be followed in due course by the adjudicatory task of determining which individuals or corporations are to receive a right to participate in the plan by operating stations.

Unfortunately, rule-making is not as simple as these illustrations might lead one to believe. Rate-making, for example, generally considered legislative in nature, has serious judicial overtones and has been the source of much litigation. In addition, agencies issue "interpretative regulations" which are not, in theory, the product of their power to create law but rather the result of the interpretation of previously existing law. Such a black and white approach to the nature of the interpretative regulation is convenient to indicate its initial distinguishing characteristics but the range between the extremes is vast. Technically, all administrative rulings are "interpretations" of the Congressional will found in the statute establishing the commission; as such, they are not truly legislative. In fact, however, because of the vagueness of Congressional mandates under which agencies operate, new law is created by any "interpretation" of them as well as it is by the formal adoption of regulations.

Of the many attempts to define the scope and nature of agency legislative

power, perhaps the most helpful for the purpose of broadly describing it and distinguishing it from an agency's judicial powers is that of Mr. John Dickinson. He states that "legislation . . . affects the rights of individuals in the abstract and must be applied in a further proceeding before the legal position of any particular individual will be definitely touched by it; while adjudication operates upon individuals in their individual capacity."

Investigations, prosecutions, supervisory duties and informal adjudication are generally considered to be the various facets of an agency's executive power. The combined effect of these activities, although perhaps less noted than their legislative and adjudicatory work, comprises the heart of the administrative system. This is true not only because of the large portion of time and personnel devoted to such tasks but also because of the important part they play in fashioning a system and its operations.

Investigations

Investigations are conducted for many purposes and have led to a considerable amount of litigation. The problems encountered here are not, however, peculiar to the concept of administrative law. Constitutional issues involving the Fourth and Fifth Amendments, questions of whether there is statutory authority for issuing subpoenas and demanding information, and challenges that an agency in a particular case is investigating areas outside its jurisdiction are those typically presented to the courts.

More germane to the present controversies are the prosecuting, supervisory and informal adjudicatory powers of the

federal independent regulatory agencies. These bear the brunt of attacks that agencies are vested with discretionary powers which make possible arbitrary and despotic actions. As a prosecutor, the agency selects those against whom formal proceedings will be taken, prepares the case for the government (which is here represented by the agency itself) and presents the collected evidence at the hearing. In this capacity there is scope for some discretion on the part of the agency in deciding whether the available evidence warrants the commencement of a prosecution. On its face, this is no more than similar discretionary powers given to any prosecutor, be he a United States Attorney or a local district attorney; viewed in conjunction with other less drastic remedies available to the agencies, however, its cumulative and coercive power is often greater.

Use of adjudicatory powers

For example, when the FTC makes a preliminary *ex parte* determination that certain advertising is false and misleading, it may choose to bring a formal cease and desist proceeding against the offending company. This entails the use of its truly adjudicatory powers including the granting of a full hearing at which evidence is presented by both the agency and the respondent, followed by an initial decision by the hearing examiner and a final decision by the Commission itself. In lieu of this, however, the FTC may merely inform the company that it believes the advertisements false and suggest an informal meeting to discuss the situation. The object of this line of action is to obtain from the company a stipulation by which it promises to refrain from further use of the al-

legedly false claims. Compromise is possible, the FTC perhaps agreeing to a change of a few words in the copy; indeed, some compromise is anticipated. But the argument is made that in any attempt at agreement the agency holds most of the cards, one of the most powerful being the implicit threat of formal proceedings with all the attendant unfavorable publicity for the company.

Administrative control short of formal adjudication is not confined to the FTC nor to this type of machinery. Through their supervisory activities certain agencies also exercise broad discretionary powers and exert pressure upon the affected industries to follow paths chosen by the agencies as those most conducive to the common good. The FTC furnishes an excellent illustration of this. Although statements by the chairman of this agency during the quiz show flare-up indicated otherwise, it does in fact exercise control over the content of radio and television programs by requiring that broadcasting licenses be renewed every three years. The general criteria for renewals, "the public interest, convenience and necessity," is sufficiently broad to allow the agency to take into consideration the manner in which a station has been operating in the past and the type of programming that it has offered. Less direct is the coercive power resulting from the need of a station to go back to the commission every three years for a new license. This leads inevitably to the desire to keep within the good graces of the Commission to assure a welcome at that time.

Another type of indirect control exercised by agencies under their executive power was recently exemplified by the Food and Drug Administration's

cranberry warnings. Prior to the time Secretary Flemming made his disclosures, no formal opportunity existed for producers to refute the government's evidence that certain portions of this crop were harmful; moreover, in the event that his conclusions had proved incorrect, legal recourse against either him or the government appears nonexistent. Other less dramatic but just as effective examples are the frequent warnings by the SEC concerning questionable investments.

Formal adjudication, the primary judicial function of administrative agencies, has already been noted and distinguished from agency legislation. A few words should be added to describe briefly the procedures involved. Since adjudication by the federal regulatory agencies has various purposes, *i.e.*, the determination of which carriers should operate over a designated route (ICC and CAB), which company should be granted an established broadcasting frequency (FCC), and whether a cease and desist order should be entered forbidding certain offensive actions (FTC), actual practice varies somewhat among agencies.

These, however, are the steps generally taken. Notice of a hearing is served upon parties involved and, after necessary pleadings have been filed, there is a "trial type" hearing presided over by a hearing examiner who is regularly assigned to the particular agency but who is hired, promoted and fired by the Civil Service Commission. At this hearing evidence is presented in much the same manner as it would be if the controversy were being tried in the courts, except that exclusionary rules of evidence are more lenient and the procedure is

less formal. At the close of the hearing each party has a right to propose to the hearing examiner the determination he believes should be made of the case and to support his proposal with reasons and authority.

After due consideration of the evidence and the proposed findings, the hearing officer makes an initial decision which may or may not be adopted by the agency as final. The initial decision may be appealed by any of the parties to the commission itself (here the term "commission" is used in its strict sense as meaning the commissioner or commissioners appointed by the President to head the agency), or the commission may decide to review the decision on its own motion. While the initial decision is "on appeal," parties are permitted to argue, either orally or by submission of briefs, to the commission. Eventually, a final agency determination of the issues presented by the adjudication will be rendered.

Right of appeal

At that time any aggrieved or adversely affected party has the right to appeal to the courts for a review of the agency's action. Generally, appeal is made to one of the United States Circuit Courts of Appeal, the intermediate appellate courts in the federal judicial system, with the further possibility of appeal to the Supreme Court available in certain cases.

Containing, as they do, all attributes of a self-contained governing unit, it is difficult to locate the independent regulatory agency in the traditional schematic outline of American constitutional government. This has led some to refer to the agencies as a headless fourth department of government and to

equate them with the legislative, executive and judicial branches. Neither in theory nor in fact is such a characterization accurate. Even in their independence the agencies are not equal to but are subject to the three primary divisions of our government.

Initially, they are established by the legislature and, as its creatures, they are subject to its control and direction. From the very birth of an agency Congress exerts its parental influence by spelling out the body's powers, responsibilities and duties. Although wide discretion must necessarily be placed in the agencies if their purpose is to be accomplished, fundamental principles of policy and procedure are found in the Congressional statutes establishing each commission; these, moreover, are subject to amendment if Congress becomes displeased with the agency's results.

In 1946 Congress took another step in the exercise of its basic right of control by passing the Administrative Procedure Act which was designed to insure the presence of certain safeguards in administrative law. Applicable to most agencies, the Act has numerous technical requirements aimed at formalizing agency practices and promoting fair play. Perhaps its most important objective was the formulation of a degree of functional separation within the agencies themselves. This could be accomplished in a way compatible with the present concept of agencies only if its application were limited to the lower echelons, for the Commissioners heading each agency have themselves the ultimate responsibility for all tasks assigned to their commission. They must initiate, direct and approve the adoption of rules and regulations, administer the programs undertaken, oversee prosecu-

tions and supervisory activities. Ultimately their decision is the final agency determination in all adjudications.

However, those entrusted with the duty of carrying out the directions of the Commissioners and who actually conduct the daily operations of the agency are to be assigned to particular jobs requiring participation in only a single governmental function. The Act went far in accomplishing this by forbidding one who has engaged in investigations or prosecutions from acting in a judicial function as a hearing officer. To insure further the impartiality of hearings, the Act provides that all hearing examiners are to be protected from arbitrary dismissal by appropriate regulations of the Civil Service Commission.

Congress has other means at its disposal for controlling the agencies. Appropriations are one instance. Legislative committees and their investigations are another. Also, not to be underestimated even if it is condemned, is the influential power a Senator or Congressman may bring to bear on agency personnel in behalf of a constituent.

Executive control

Control by the executive is less concrete but probably more effective. What has been termed the President's "power of discretion," whereby he spells out the policies, aims and hopes of his administration, has a definite influence over agency programs. The President's control over appropriations through the reviewing authority of the Bureau of the Budget and his powers of appointment and removal are also of significant importance.

Judicial control over agencies is derived principally from the power of the courts to review agency adjudicative

determinations on the petition of some adversely affected party. In reviewing agency decisions the courts act substantially the same as do appellate courts reviewing decisions by trial courts; they attempt to ascertain whether the evidence presented supported the factual conclusions reached and then whether there was a correct interpretation and application of existing law to those facts.

What is termed the court's "scope of review" has been subject to much debate and detailed examination. Suffice it to say here that in reviewing factual determinations of an administrative agency the courts are limited by the "substantial evidence" rule which dictates that they cannot upset a decision unless they find that a reasonable man acting reasonably could not have come to the same conclusion as did the agency.

On questions of law, however, the court is acting more in its own domain. It is not bound by agency decisions as to what the proper interpretation of the law is; indeed, it may instead reach a different determination based upon its own experience and ability. Another way of expressing the scope of a court's judicial review is to say that the primary duty to ascertain facts rests with the agency and that here the courts are limited in their power to interfere. Where questions of law are raised, however, the primary duty of interpretation resides in the courts and agency determinations have less authority.

This, in outline, is the system of administrative law upon which attacks have constantly been made and which is the subject of Mr. Hector's memorandum. Opposition to agency government usually proceeds along one of two

avenues: it is claimed either that fundamental principles of our governmental system are being violated or that, in practice, the agencies have not proved effective in accomplishing their purposes while at the same time insuring justice. The Hector memorandum, in keeping with the prevailing wave of criticism, is of the latter type of complaint.

He finds six basic faults in the operations of the CAB and these he extrapolates, to some extent, to all of the federal independent regulatory agencies:

1. Rule-making, or as he calls it "policy" making, is inefficient.

2. There is insufficient cooperation among agencies dealing with the same or related problems.

3. Too much of a commissioner's time is spent in routine matters.

4. Multi-commissioner commissions lead to dissension and argument which hinders efficiency.

5. Adjudication is unfair because there is no attempt to establish a principle of *stare decisis* and decisions are written not by the Commissioners who sign them but by the agencies' legal staffs.

6. The duties of legislating, adjudicating, administering and investigating are, in practice as well as theory, incompatible—it being impossible for one man to exercise them all concurrently with fairness.

As an example of inefficiency in rule-making, Mr. Hector cites the Seven States Area Investigation to which reference has already been made. After the CAB had ordered the formulation of a plan of air service for the area, a hearing examiner was appointed; he pre-

sided over hearings which took the better part of a year to complete. One hundred and ninety-four persons testified and the total collection of pleadings, transcripts, exhibits and briefs made a pile five and a half feet high. Another 14 months were spent by the examiner in the preparation of his recommendations which were eventually presented to the Commissioners in a document 658 pages long. Briefs, which were in the aggregate eight inches thick, were also presented to the Commissioners by those who objected to the plan. More than 21 hours of the Commission's time was devoted to hearing oral arguments of the aggrieved parties.

After all of this effort, the Commission decided to reject the hearing examiner's plan and write its own. This the Commission did during the next seven months, relying not upon testimony and exhibits originally presented at the initial hearing but upon the briefs submitted and what the members remembered of the oral arguments. Eventually, a plan was promulgated—over three years had elapsed since commencement of the job.

Although the Hector memorandum is somewhat equivocal in this respect, apparently it recommends that the hearing procedure be virtually abandoned in the rule-making process of the agencies. Instead of giving all interested parties an opportunity to air their views at a formal hearing, Mr. Hector would have the agency act primarily *ex parte* in the conduct of necessary investigations and in the formulation of the rule, regulation or policy. As sensible as his idea sounds, and in spite of Supreme Court decisions stating that there is no Constitutional *right* to a hearing in rule-

making, many believe the existing procedure to be a desirable one.

It is argued that the hearing is an effective device to make the agencies, whose personnel are not elected, responsive to the public will. In addition, it is claimed that, if those vitally interested in a proposed regulation are invited to express their views and to present evidence, a complete investigation of the problem is more likely to result, since antagonistic parties are certain to offer the best possible case in their own behalf and cloakroom conversations will have less effect where a forum exists for openly threshing out matters. To bolster their argument, proponents of the legislative hearing point to Congress itself which usually conducts hearings prior to the consideration of legislation.

Mr. Hector's second objection, that there is insufficient liaison between agencies, has been frequently raised in the past. Why coordination does not exist between agencies regulating different aspects of the same problem, for instance the CAB and ICC, both of which are interested in the broad problem of transportation, is not easily perceptible, nor is any solution short of combining the agencies easy to propose. Mr. Hector apparently believes it would be helpful if the responsibility for administrative legislation (policy-making) were placed directly under the executive department, thus dispensing with the idea that the agencies are "independent" when performing this function. Under such an arrangement, the direct influence of the President and his assistants could be brought to bear on those making policy in the various regulated fields. The result, it is argued, would be a comprehensive and unified program.

The major objection to this proposal is that it would effect a major shift in power from the Congress to the Executive. Traditionally, the legislature has the responsibility for making law; under the administrative system, as we now know it, some of this responsibility is delegated to "independent" agencies which are in a no man's land between the executive and the legislature; under the Hector proposal the delegation to the executive would be complete. Anticipating this objection, the Hector memorandum suggests that Congress should be more definite in spelling out its desires at the time that the delegation is made. But, it may be answered, this is in direct contradiction to one of the original needs the agencies were to fill; moreover, if Congress can sufficiently spell out regulatory programs, why should any legislative power be delegated in the first place.

A further objection might be urged to the effect that Congress would have less control over the administration of programs properly within its own domain. In the past, investigations, such as that presently being conducted by the House Committee on Legislative Oversight, have been able to exert considerable pressure on the agencies. If the agencies are truly an executive department, questions of executive privilege are bound to arise and hinder inquiries.

The third and fourth points made by Mr. Hector are closely related and may best be discussed together. He appears to view the primary task of the Commission to be the establishment of policy and to believe that the inclusion of other duties, especially those involving administration and investigation, causes the undue burdens placed upon its mem-

bers. His solution is simple: transfer these additional duties to someone else. He envisions the transferee as a body resembling the Department of Justice which now performs similar functions.

From what Mr. Hector says, it appears that these duties occupy so much of the Commissioners' time because of their reluctance to delegate routine matters, such as the drafting of letters, the granting of uncontrolled licenses, exemptions, and permits, to subordinates or to one or other member of the Commission. He notes, also, a tendency for the Commissioners to take under their personal consideration questions of procedure which arise during the course of investigations and prosecutions. One reason which he gives for this is the frequent disagreement of the various members of the Commission as to many matters within their jurisdiction; hence, they wish to fight for their own beliefs at every opportunity.

Transfer of duties

The suggestion that investigatory and administrative duties be transferred to a separate agency can be criticized on the ground that it will result in less coordination within the regulatory scheme. This again was one of the aims sought in establishing independent regulatory agencies in the first place. It is questionable whether the loss of the advantages under the present system will be sufficiently compensated for by the gains anticipated from Mr. Hector's proposal. As to the difficulties encountered by the appointment of several Commissioners of equal authority to each agency, it may be argued that this is concomitant to any government, or governmental unit, which is the product of a two-party system and which gives

voice to the minority. That some process be established whereby a minority is prevented from frustrating the work of the Commission is indeed necessary; the ability to design such a process should not be beyond the ingenuity of the politician. Besides, it might be argued that some disagreement is good at the Commission level both as a deterrent to rash actions and as an encouragement of innovations.

The most telling stricture on the administrative system made by the Hector memorandum is included in the section devoted to administrative adjudication. His objections to the lack of the principle of *stare decisis* and to the policy of rendering "institutional decisions" cannot be logically separated from his discussion of the incompatibility of the legislative and adjudicatory responsibilities of the Commissioners.

In order to understand his dismay at the absence of *stare decisis*, the principle that legal precedents are to be followed, some concept of the position of courts in the Anglo-American system in relation to the making of law and the process of arriving at decisions is necessary. The common law courts by the act of deciding cases were largely responsible for developing many of the basic principles now accepted in the law. When a particular controversy is brought to them, the courts decide it not only upon the equities of the immediate parties but with a view toward insuring that their result will be compatible with decisions on similar cases previously rendered or likely to arise in the future. The court's decision in a case is the adjudication of the rights of the parties to the action; this, however, is not the limit of the court's function. Its decision is explained and supported

by its opinion which is an expression of the rationale for its holding. In rendering their opinions the courts attempt to build general principles which will apply not alone to the instant case but also to other similar ones. Therefore, general principles are found by a litigant and his lawyer in the court's opinions and specific applications of these principles are exemplified by court decisions in specific cases.

To insure a certain stability in the law so that men may adjust and regulate their affairs in accordance with it, courts, by virtue of *stare decisis*, rely heavily upon past decisions; and the lawyer uses decided cases to judge the legality of a client's actions. If his client is brought into court as a litigant, the lawyer will argue his case largely by drawing on precedent. The Hector memorandum indicates that this is impossible in administrative adjudications for two reasons. The Commissions are reluctant to express in their opinions any general principles supporting their decision and, even where there is some indication of the reasons for deciding a line of cases, the Commission is apt to completely disregard such precedent in any particular case.

The "institutional decision" plays its part in the resulting confusion. Mr. Hector points out that opinions are seldom written by a member of the Commission. The more usual procedure is for the Commission to make a decision, inform its legal staff of the result and ask them to draft a suitable opinion. The legal staff then goes over the record and drafts the opinion which will be adopted, usually with little review, by the Commission. The result is that no one knows who actually expressed the rationale which is offered as the reason

for the decision nor whether it accurately represents the true feeling of the Commissioners.

Another fault found by the Hector memorandum in the adjudicatory system of the agencies is that the judges, the Commissioners, are also the legislators. As a practical matter he finds these duties incompatible. In the first place, he argues, there is nothing wrong and in fact there is something advantageous, for a legislator to associate with the regulated. To have a drink or play a round of golf with an industry executive can be beneficial in promoting confidence in the agency and in the gathering of information and insight into many of the industry's problems. Such a relationship between a judge and litigants is, however, dangerous for it may lead at the least to suspicion and, at the worst, to actual prejudice, whether intentional or not. Noted also is the human impossibility of one man's adopting two standards, one to be used when he is legislating and the other to be applied when he is judging.

As a solution for these difficulties, the memorandum proposes the establishment of an administrative court or system of courts which would have no legislative duties and which would be expected to function in the manner and tradition of our other civil and criminal courts. Some adjudications of a minor nature would be left within what remains of the agency but appeals from these cases, would be granted to the same court having the responsibilities for deciding important cases in the first instance.

Again, the objections to this proposal by Mr. Hector will be based upon the original reason for including the adjudicatory functions within the agency itself: the need for specialization, the

unique character of many agency adjudications and the fear that any court system would eventually become bogged down by the adoption of rigid procedures.

Mr. Hector's observations, criticisms and suggestions are not surprising to anyone who has been involved in the study of administrative law. He offers little that is new. His memorandum, by itself, is not destined to cause any violent reorganization of the independent regulatory commissions; it does provide additional fuel to the continuing discontent shared by many over the present state of affairs. As in the past, this inquietude will in all probability lead to further intensive study of our agency system. Historically, two distinct approaches to problems have been taken. The first attempts to retain the basic structure of the agencies as they now exist and to correct deficiencies by modification and by additional safeguards. The second advocates—and such is Mr. Hector's predilection—discarding of the independent agency for something new and different.

Conclusion

That problems do exist cannot be denied; that solutions are vital, especially at a time when our system of government is undergoing its most serious ideological challenge, can hardly be debated. Differences of opinion on the best method of strengthening the functions the agencies were established to serve are not easy to reconcile. This article has not attempted to undertake such a task. Its modest purpose has been served if it has shed some light upon the agency system as it now exists, the criticisms of it and the proposed solutions.

One word of hope should be added. The federal independent regulatory agency is a relatively new form of governmental institution; it is bound for some time to have growing pains. The early history of our country with its debates and battles over the proper spheres of each governmental department, the questioning of the Supreme Court's power to invalidate Congressional action, the doubt as to the extent

of the Executive's privilege from investigation by the Legislature and numerous other fundamental questions which had to be answered if our Constitution was to bear fruit bode well for the ability of our people to make the necessary adjustments in the ever growing administrative law system. Now, as then, courageous action is often necessary to achieve lasting results.

SUBURBIA—A RELIGIOUS PROBLEM?

Victor C. Ferkiss •

On leave from the faculty of St. Mary's College of California, Professor Ferkiss is traveling in West Africa under the auspices of the International Cooperation Administration.

MILLIONS OF AMERICANS today live neither in cities nor on farms. While our rural population declines and the urban population barely maintains itself, the suburbs are booming. Although the suburbs exist in areas which until recently were countryside, they are urban in origin and character, fragments of the "exploding metropolis"¹ ungraciously strewn across once uninhabited acres. The suburbs are not only the fastest growing areas of America; they are the areas where people have more money and more children than the national average. The future of American society may well lie in the suburbs.

For most observers the problems presented by suburbia are purely secular in nature: the effect the burgeoning sub-

urbs may have on our economic patterns, on our future politics, on our habits of work and leisure. Those concerned with religious matters have been slower to look at the suburban boom as a special problem. Protestant leaders have deplored what seems an abandonment of the cities by members of their faith and Jewish writers with their keenness for group self-analysis have examined the changed lineaments of Jewish life in the suburbs; only recently has a Catholic attempted a sustained and serious look at the impact of suburbanization on the Church.

Father Alexander Greeley's *The Church and the Suburbs*² is more than just another easy essay in religious pseudo-sociology. Behind its bright and judicious overview of the suburban problem lurks a real challenge to our

¹ Described in *The Exploding Metropolis* by the Editors of Fortune. Doubleday, Garden City, N. Y., 1958.

² Sheed & Ward, New York, 1959. \$3.50.

thinking about the role of the Church in modern American life. His thesis is simple enough — suburbia presents a new and serious problem of adaptation for American Catholicism — but the implications of this thesis are far-reaching, for some of the points he raises go to the heart of the spiritual problems of modern man. Suburbia, he holds, is distinct religiously. The inference is plain. Cultural attitudes affect religious attitudes and practices. Suburbanites are in many ways different culturally from other people. Since there is a suburban cultural type and problem, there is and must be a suburban religious type and problem.

The evidence seems clear enough. The suburban parishioner—of a generally high educational level and attuned to the dynamics of the "other-directed", "organization man"—asks that his church be more of a social service center and his priest more of an extroverted group leader than before. In a child-centered culture, which suburbia certainly is, the school sometimes takes precedence over the church, as if the parish were an educational association rather than a community of worship. The suburban family, too, is different. The father, despite the outward attention he gives to his family, is more torn between the demands of home and of his job, for (although the hours worked by manual laborers have decreased) the organization man lives for his work 24 hours a day. The suburban wife, armed with labor-saving devices at home and parent-surrogates outside it, feels herself ever more functionless. Suburban youth is blasé, untroubled and unenthusiastic.

So far the portrait is a bleak one. But Father Greeley, a suburbanite by

birth and by assignment, knows that this is not the whole story. Suburbia is the chosen way of life for millions of Americans searching for something better—an "escape from industrialism" for part of their lives. What they have created is by no means an unmitigated evil. Actually, in many respects the life of the suburbanite is as near an approach to the utopia implicit in much of contemporary Catholic social thought as sinful man could hope to attain. There are few rich and few poor and, because the suburbs are so largely homogeneous economically, there is little room for class conflict. Family life is highly honored and the grosser vices little in evidence. Among Catholics the level of observed religious practice is perhaps higher than at any time in the history of the Church.³

Challenge to Catholicism

Why then is suburbia a challenge to Catholicism rather than the answer to its prayers? Because, despite the outward honor paid religion, the flames of the spirit seem to burn so low. In this new Eden the enemy is not the Snake but the ubiquitous Lotus. There is a lack of enthusiasm and an absence of that vision without which the people perish.

How accurate is the picture Father Greeley paints? One can quarrel with details but it must be admitted that he and similarly inclined theorists are talking about a country the landscape of which we all know well. But is the country described confined to suburbia? I do not think so.

Suburbia has its special characteristics and, from economic and political and social points of view, it presents

³ *Ibid.*, p. 54.

special problems. But the religious issues which Father Greeley raises are problems besetting an area far wider by any definition than suburbia. Suburbia may offer them in a particularly clear and pure form but the problems themselves are an outgrowth of the cultural consequences of economic and political democracy. They are the seemingly inevitable problems of man in "mass culture;" in short, of modern Western man as such. Suburbia and mass culture are closely related but, in aiming at a wildcat, Father Greeley has wounded a tiger.

The central spiritual problem of modern life is that presented by a vast middle class to which virtually everyone belongs culturally if not economically, a class neither rich nor poor, relatively free from the classic vices, well disposed toward its fellow man (except perhaps those of darker skin at close quarters),⁴ professing its belief in God, and yet making its comfortable way of life not an inn on a pilgrimage but the last and final destination of life's journey. Religion is worship. What the middle class worships is itself; it kills its heretics with kindness. How can middle-class living be turned to the worship of the True God? That is the essence of the religious problem which Father Greeley encounters in suburbia. It is to be found, I submit, throughout our society.

What answers does Father Greeley propose to this challenge? At the center of his recommendations is the call to a new "suburban spirituality," consisting of four elements: mortification, generosity, good taste, and intellectual curios-

ity. Let us examine them in reverse order.

Good taste and intellectual curiosity are intrinsically only natural virtues. Father Greeley suggests that they can, however, prepare the way for spiritual development in suburbia. This, of course, is true. Like all other good things in life, however, these too can easily become ends in themselves. Intellectual and aesthetic interests can be a distraction from the spiritual life as well as a means toward it. What of generosity? It, too, is a merely natural virtue, unless the drop of water is given in Christ's name, whereby it is transformed into the supernatural virtue of Charity. Americans, American Catholics included, are already world-famed for their generosity. But how supernaturalize this outpouring of material gifts? How eliminate the motives of conformity ("everybody is giving"), fear ("otherwise these people will 'go Communist'"), vanity ("My division of the United Fund topped all the other industries") and the simple desire to remove the ugly from one's sight? The overt practice of generosity does not seem to be an adequate vehicle for the needed interior spiritual revolution.

Mortification or self-denial? Alas, the path toward the practice of this particular virtue in suburbia is a twisted one indeed. Somehow the wearing of a hair-shirt on the golf course seems absurd and yet many men must spend a good deal of their time playing golf or the equivalent in order to succeed at their jobs. To drive an old or small car rather than a new or large one is in more sophisticated circles itself a kind of ostentation. Besides, middle-class culture is a family-centered culture and the problems of family self-denial have always

⁴ Father Greeley fails to note to some extent that the flight to suburbia is motivated by a desire to avoid contact with darker races. See his discussion, pp. 19-22.

presented special difficulties for spiritual counselors. Should father really give up his job rather than fight for that promotion? Much Christian sympathy for the alleged withdrawal from society of the "Beat Generation" undoubtedly stems from a realization of the difficulty of being half in and half out of the "rat-race". It is hard to be moderately aggressive or temperately successful in a firm or a society which has a policy of "up or out."

Father Greeley's advocacy of a "theology of work"—no new idea, as he would be the first to admit—is an attempt to deal with many of these objections simultaneously. The father of the family becomes dedicated to his work as a means not of personal aggrandizement but of service to society. Functionless Mom finds a meaningful role in helping him do so. The children's striving for good marks in school (as opposed to learning anything worthwhile) better fits them to carry their share of the burden later on. Unfortunately, this sounds rather like a marriage of the so-called "Protestant ethic" and "togetherness." The principal difficulty is that it can never answer (or even ask) the question, "What if the father's work is at best socially useless?" Suppose he is a designer who plans next year's obsolescence or is an advertising copywriter dedicated to making automobile tail-fins a family necessity?

One can scarcely sanctify oneself through dedication to something intrinsically useless, except, of course, as a mortification in the sense that the word is used by novice masters. But this kind of breaking of the will is surely not what Father Greeley would recommend for suburbia. One may dedicate the pains

of the organizational "rat-race" to God just as one does a physical agony; however, a social system in which we all achieve sanctity by accepting collective futility is simply monstrous. If work dedicated to God is the key to spiritual progress and if only worthwhile work can be so dedicated, then the spiritualization of suburbia must be preceded by its emancipation. The men who staff the organizations which manage our society must take control of that society and order its activities, economic and otherwise, toward the establishment of a meaningful hierarchy of values. The rat-race must be replaced by the pilgrimage.

"Suburban" Spirituality

The problem of modern spirituality (whether one calls it "suburban," "middle-class," or "mass" spirituality is irrelevant) is more and more central to our destiny. For, if civilization is not laid waste by nuclear warfare and if the rise in world population does not destroy the possibility of a satisfactory standard of living, the whole world will increasingly become patterned along the lines of present day American suburbia.

For the first time in human history we are on the threshold of a world in which mankind at large will be called upon to make of its work and its leisure a means of spiritual growth. In past eras only a small, almost infinitesimal minority of men had the opportunity for the kind of introspection which enabled them to ask whether they had sufficient detachment, whether they were spiritually dry, whether the work they were doing was of a sort to bring them and their fellow men closer to God. The vast majority of human beings lived as most human beings still live, so bound by hunger and toil and

compulsion that these relatively rarefied spiritual problems could hardly trouble them.

Currently in America, increasingly in Western Europe and, hopefully, throughout the world, an era of material prosperity is at hand wherein the masses of mankind will have an opportunity to choose how to use their wealth and their leisure. The problems of the stewardship of wealth once faced by a select few now face all of us. What is wrong with middle-class culture is that until now we have acted spiritually like *nouveaux riches*, content to spend our money on creature comforts and our spare time in idle amusement. We have remained proletarians at heart, never asking where our riches came from, never questioning the decrees of our masters or the pattern of our lives.

Aristotle was skeptical of the possibility of what we would call democracy because he knew that freedom demanded material well-being and leisure; these, he believed, could only be the possessions of the few. Modern technology has provided an increasing proportion of mankind with the requisite bases not only for political but for spiritual freedom. A freedom to make meaningful choices in the realm of values. Whether the new man being born in the suburbias of the world will choose to use this new ability to order his life and how he will go about ordering the things of this world to his last end are the real questions, as Father Greeley's little book suggests. No more important questions could possibly be asked.

THE PRIEST AS COUNSELOR

William J. Devlin, S.J. •

Father Devlin, M.S.S.W., M.D., Ph.D., is Professor of Psychiatry at the Stritch School of Medicine, Loyola University, Chicago.

FATHER HAGMAIER, Instructor in pastoral psychology at the Paulist House of Graduate Studies, and Father Gleason, Chairman of the Department of Theology at Fordham University, have collaborated in this book¹ whose aim is to help the Catholic confessor and counselor to be of aid to troubled souls by combining the realistic spiritual wisdom of the Church with the most helpful techniques of modern psychology.

Part I, Psychological Perspectives on Counseling (including the treatment of counseling theory and technique) is the work of Father Hagmaier. In Part II, The Moral Perspectives on Counseling, Father Gleason discusses the moral questions posed by the sexual deviationist and the alcoholic. An Appendix, briefly summarizing the chief mental illnesses and listing various referral facilities, completes the book.

Some of the "longitudinal objectives the authors see as important in the training of today's young priests are:

SOCIAL ORDER

¹ By George Hagmaier, C.S.P. and Robert W. Gleason, S.J. Sheed & Ward, N. Y., 1959, xiv, 301 pp. \$4.50.

a deeper insight into the unconscious motivations behind much of human behavior; a conviction that most human conflicts are far more complex than they appear; a recognition that the same problem in two people can have wholly dissimilar causes, and therefore quite different solutions; a reluctance to jump quickly to 'diagnostic' conclusions about the reasons and remedies for behavioral difficulties; a readiness to listen more and more and say less in counseling relationships; the clear recognition that many specific human problems require specific information and training to be solved; an informed readiness to refer professional problems to professional experts; a deeper grasp of the relationships and distinctions between emotional and religious, psychological and supernatural influences, and the ways by which both the priest-counselor and his parishioner can take them into account."

The book was written with the daily needs of counselors and confessors in mind and provides practical, sound suggestions for dealing with such difficult problems as alcoholism, masturbation, homosexuality and scrupulosity. These practical pointers, however, are not isolated and, hence, not dangerous. They are prefaced by a sketch of the factors which influence the development of the human person and are followed by an authoritative treatment of the moral questions posed by the sexual deviationist and the alcoholic.

The book has for its objective "to build a counseling philosophy rather than to solve many individual problems in a few words." This objective has been admirably accomplished in many ways by the authors, especially in their reiterative urgency of a patient, *listen-*

ing technique, in their attempt to create an informed readiness to *refer* professional problems to professional experts. However, in the early chapters on Emotions, Behavior and the Psychology of Human Weakness, the book would have increased its power if the dynamic nature of man and woman and many of the basic and acceptable tenets of Depth Psychology could have been presented within the framework of the scholastic system of philosophy and if the superego were placed in its proper perspective within that same system. Depth psychology is rejected by many priests today because they very simply do not understand it as a system. Ignorance arouses fear and hostility and finally rejection of the total system.

The major weakness in the book is a confusing presentation of the priest as a counselor. There is a lack of clear distinction between what type of help a priest, untrained in psychology, should give in a counseling situation, and the type of help in counseling given by a priest who has had a few courses and some *supervised* experience in non-directive techniques (one of which is Carl Roger's "Client-Centered Therapy"), and the type of help in a counseling situation given by a priest trained in counseling psychology or clinical psychology. These non-directive techniques are powerful tools.

Priests as such are not trained to handle the emotional problems of their parishioners. Moreover, it is *dangerous* to handle them without training. If they are going to handle them, they should be trained like a psychologist, and they should handle these problems under the supervision of a psychiatrist or, minimally, that of a trained psychologist. The lack of clarity on this point is evi-

denced in the book when, at one stage, "the counselor and/or confessor who *understands* something of the unconscious and its role in human emotion and behavior is in a good position to go *beyond some* surface problem that is brought to him and try to see those aspects of it which reach into the unconscious" and, at another stage, the priest is looked upon more as a referral source to those better trained than he. The authors themselves seem to realize their problem when they state in their Introduction that young priests must have the opportunity, in *supervised* group discussions, to analyze and compare some of their practical apostolic experiences.

These two areas of criticism, the latter of which arises just because of the present day lack of clarity in the entire field of counseling and because of the lack of clear-cut distinction between the trained and the untrained counselor, in no wise detract from the excellent value of this book. There is even a lack

of clear distinction in the American Psychological Association between the relative fields of endeavor of the clinical psychologist and the counseling psychologist.

The book is truly a must for every priest's library and it represents a fine pioneer practical attempt in a most difficult area. Both Father Hagmaier and Father Gleason are to be congratulated upon this work. Father Hagmaier has certainly presented a new challenging attitude for the priest of today. Father Gleason, too, offers many, many areas of practical challenge in his clear-cut presentation of the accompanying moral issues. His area would be even more challenging if he added a chapter on the morality of scrupulosity and if he rewrote his chapters with the aid of a trained Depth psychologist to supply the concrete psychological principles and concrete examples to completely round out and give life to his moral framework.

Books

SOCIAL THEORIES OF FERTILITY AND THE MALTHUSIAN DEBATE. By D. E. C. Eversley. Clarendon Press, Oxford. ix, 313 pp. \$5.60

DE MALTHUS A MAO TSÉ-YOUNG. By Alfred Sauvy. Éditions Denöel, Paris. 303 pp. 900 fr.

LA LIMITATION DES NAISSANCES. By Stanislas de Lestapis, S.J. Spes, Paris. 316 pp. (No price indicated.)

THE POPULATION DILEMMA. By Albert Nevett, S.J. *Sword of the Spirit*, 128 Sloane Street, London, S.W. 1. 54 pp. 50c
Although scholarly discussion of the factors that control population growth is not a modern phenomenon, current concern over rapid population increases throughout

much of the world has greatly intensified popular interest. Over a century ago Malthus advanced the theory that population tends to increase faster than subsistence and that only misery or vice (the positive checks) or restraint (the preventive check) insure that people and food remain in equilibrium. Later theorists argued about the nature of this "tendency" and the circumstances under which "restraint" was likely to operate but none ignored the challenge his theory raised. The studies reviewed here focus on different aspects of this Malthusian dilemma.

Professor Eversley's work deals primarily with the various social theories advanced to explain the steady fall in the

birthrate experienced by most Western countries during the century following Malthus's death. Population theorists ascribed this decline to the effects of a rising standard of living, of democratic institutions and of industrial civilization. As Eversley points out, most of these theories drew heavily on both the wisdom and the folklore of the past; they were based on relatively superficial correlations; and they failed to develop any tested generalizations. He concludes his excellent historical survey with the wise reminder that though past thinkers have given us no adequate theory of population, we can learn a great deal from studying both their aberrations and their limited contributions.

On the other hand, the well-known French demographer, Alfred Sauvy, feels that we have sufficient knowledge to deal with current population problems, provided we would divest ourselves of both Malthusian and Marxian prejudices. As he views the situation among the rapidly growing low-income countries, there is serious need for extensive economic development (the Marxian solution) but this is possible only if there is family limitation (the Malthusian approach) which, in turn, is only possible if preceded or accompanied by economic development. In other words, both approaches are necessarily involved but precedence must be given to the economic.

Unfortunately, capitalist leaders try to avoid the costs of promoting economic development by stressing family limitation. Communist leaders, for their part, ruthlessly hope that population pressures will lead to revolution and the rejection of capitalism. Hence, after the lapse of a century, the conflict between Marx and Malthus assumes world proportions. For Sauvy, the calculations of both camps are petty, short-sighted, and *sans élévation*. What is needed is immediate, large-scale economic aid. The current armament race renders this approach unlikely and thus this challenging book concludes on a note of pessimism.

Father de Lestapis' work aims primarily at clarifying the moral and spiritual significance of various forms of family limitation. After competently summarizing the views on birth control of the major religious groups throughout the world, he as-

sesses the results of current family limitation programs, indicating their far-reaching social, economic and moral implications. Against this backdrop he then develops the Catholic position, showing that it is based on the objective exigencies of human sex and conjugal love.

Well aware of the extent and complexity of modern population problems, Father de Lestapis dodges no practical issues. His profound grasp of the Church's teaching enables him to maintain balanced views of charity and chastity, unfortunately all too frequently lacking in the current population controversy.

In his relatively brief pamphlet, Father Nevett presents an excellent summary of the major social, economic, political, and religious considerations pertinent to current population trends. After describing what we know and do not know concerning the dimensions of the "dilemma," he aptly defines the Church's position and places strong emphasis on the practical implications of charity and solidarity among nations. Readers will find this pamphlet very helpful in clarifying their thinking about contemporary population issues.

The major studies reviewed here tend to complement each other. Eversley's discussion of past problems and suggested solutions offers a sobering corrective to much modern thinking, Sauvy's sketch excellently summarizes the salient points of the current situation, and de Lestapis' development of the Catholic approach aptly indicates the need for clear thinking and the extensive application of Christian charity.

JOHN L. THOMAS, S.J.

THE END OF AMERICAN INNOCENCE.

A Study of the First Years of Our Own Time—1912-1917. By Henry F. May. Knopf, New York, xvii, 413 pp. \$5.75

This is an intellectual and cultural history of the United States covering the later years of the Progressive period. The book might be better entitled, "The Dawn of American Maturity." In any case, it is a fresh and informative interpretation of the era.

The author finds that there were three major convictions to the American creed

in the 19th century: the moral order of the universe, a theory of progress and a theory of how people ought to behave and didn't. These are described by Professor May as composing a culture.

These three major beliefs were attacked rather sharply during the Progressive period. The evidence of this attack is sifted from the writers of the period, poets, philosophers, and others including the "Muck-rakers."

Few will object to the author's observation of a rather profound change in American customs and behavior between pre- and post-World War I eras. But to most historians this change in American life has seemed a cultural awakening and a period of political and economic improvement. Roosevelt, Taft and Wilson gave better leadership to the country in these matters than their predecessors. Critics like the "Muckrackers", far from weakening American ideals, rather improved both life and thought in the United States. Sharper critics such as Mencken at least forced a cultural reappraisal that was invigorating.

The main limitation of this book is a lack of depth in analysis. Many of the important figures whose ideas influenced the period are dismissed in a paragraph. Such treatment fails to indicate how effective they were and in what way they affected the stream of American life.

The author does show the general trends of the period well, especially the literary and the philosophical ones. His observation that the prewar "Rebellion" was fragile, contradictory and usually shallow is well taken. Far from attacking fundamentals, most of the writers in this period were eager to bring greater realism into American attitudes. They were friendly critics for the most part, affirming standards of equity and fair play. Even the "Bohemians" and the I.W.W., apart from certain excesses in conduct, seemed more opposed to cant than to morals.

To the advantage of the United States, these critics of American civilization were less cynical than their European counterparts. The tempering of American optimism that these cultural rebels accomplished may have been their chief contribution to the period.

FRANCIS J. DONOGHUE

FREEDOM & REFORM IN LATIN AMERICA. Edited by Frederick B. Pike. University of Notre Dame Press. viii, 308 pp. \$6

LATIN AMERICA: A Challenge to Catholics. By Jaime Fonseca. N.C.W.C., Washington, D. C. 36 pp. \$0.25

Professor Pike's book consists of a dozen essays, designed to throw light on a different aspect of contemporary Latin American life and to weigh current developments by standards of "freedom" and "reform." Only three countries, Uruguay, Bolivia and Brazil, receive the exclusive attention of any of the essays. The bulk of the book is given over to broad, general discussions of such topics as "The Concept of Freedom in Latin America," "Constitutionalism," and "Democracy."

Since the book appears under the imprint of a Catholic university, it seems germane to point out that the social, political and economic consequences of Christianity in Latin American life are not investigated. In the words of the book's editor, a member of the faculty at Notre Dame: "Changing patterns of Latin American religious practices are largely ignored in this book."

The result is "secular" history and analysis that, unfortunately, skips over one of the essential ingredients of any adequate understanding of past and current intellectual and social currents in Latin America.

This is a notable lack. The book is a further disappointment in that its editor and authors heavily employ academic jargon and broad, abstract generalizations. The result is heavy going. A product of the academic world, it can be recommended best to the specialists of that world. With the great need that exists in our country for a better understanding of what's happening in Latin America, this is a pity.

In the light of this reluctantly stern judgment, Mr. Fonseca's modest N.C.W.C. pamphlet is a welcome relief. It is a collection of six articles originally written by Mr. Fonseca for the N.C.W.C. News Service. Despite its modest genesis and format, it covers a tremendous amount of ground and offers real insight into the plight of our Latin American neighbors, ridden as they are by social injustice, poverty and illiteracy, and assailed by conflicting ideologies.

In a most interesting chapter on communism, the author outlines the main complaints he hears from Latin Americans (he himself is a Costa Rican) regarding the United States. However, he points out, "these are grudges of otherwise basically friendly peoples that the communists are trying to turn into barriers of hate between Latin America and the United States." As an important step in answering this serious problem, he urges that, "a more direct and enlightened participation of [American] Catholics in shaping international relations and policies is needed to defeat the communist campaign."

His chapters on religious ignorance and the shortage of priests are both intensely interesting and not unmoving. He certainly corrects any naive impressions that might exist that Latin American is a "Catholic area." In a broad cultural sense it may be; however, Mr. Fonseca points out, it is an area in which only about one third of the people have ever made their first Communions. The shortage of priests is equally radical.

Mr. Fonseca's pamphlet is so short, inexpensive and easily accessible, that it must be urged upon all literate Catholics.

KEVIN CORRIGAN
New York, N. Y.

HUMAN FREEDOM AND SOCIAL ORDER.

An Essay in Christian Philosophy. By John Wild. Duke University Press, Durham, N. C. xi, 250 pp. \$5

Philosophy changes its fashions at least as capriciously as Paris dressmaking. One year all the talk is about a *Weltanschauung*; the next it is all a *mystique*. Even Thomists have their fads: sometimes they simply can't get along without the real distinction; at other times, all is *esse*. John Wild is not one to let philosophical progress pass him by. Like any man of distinction, he has switched his brand, from realism to existentialism. The key word now is *Lebenswelt*.

This book is a revision of two series of lectures delivered in 1958. Both dealt with Christianity and philosophy. Neither treated concrete social problems, in the ordinary sense. Out of these efforts has come

a description of a new Christian philosophy, far different from that of a Gilson or a Maritain Wild's position (p. 101) is not "a system deduced from Christian principles. . . . It is rather an attempt to bring the judgment of faith to bear on this activity [philosophy] of man, and to bring philosophy into such a condition that it can face this judgment and be illumined by it." Central to this statement is the meaning given to faith. Thomism makes it, in Wild's exposition, an unclear knowledge, a faint image of reason. He suggests that faith means, "the ultimate concern for which we are ready to make real sacrifices in ordering our existence." His criticism of Thomism is a recurrent theme. It, like the whole western tradition in philosophy (with the possible exceptions of Augustine and Kierkegaard), has over-concentrated on the world of objective essences, translating all man's concerns into systems of static natures. Natural law, in the usual sense, is similarly criticized. What is needed, Wild tells us, is more subjectivity, more stress on the actual living of a personal life.

In the second half of the book, ethics and social order come to the fore. Law, politics, society and social institutions must be personalized, absorbed into the subjectivity of the person. What you do doesn't seem to matter much; what is important is "lived awareness." Personal freedom is a high value. Thomism is wrong about freedom: it does not consist in making deliberate decisions on the means to be used to reach an end fixed by nature. Existential freedom is manifested in one's whole attitude toward living. The really important choice has to do with one's end, with the total commitment of the person.

Ethics becomes a lived way of life. Wild is definite about the inadequacy of a naturalistic morality (including Thomism) and an ethics of self-realization. His "ethics of subjective freedom" is quite different from the usual systems. "Instead of good and evil, we find choice or the failure to choose. Instead of right or wrong, we find personal integrity and disintegration. Instead of obligation, we find love; instead of justification, understatement and humility; instead of justice, forgiveness; and instead of self-realization, generosity and sacrifice." (p. 133)

It is not easy to judge a book like this. Many of its criticisms are well taken. Rationalism, systemism, the depersonalization of man—these should form part of the Thomist examination of conscience. Wild's message has a sincerely religious character: if we are to expect any improvement in human living, it must come from within the person. You can't better society by merely changing the laws. His stress on the individual person and his conscience is good Protestantism. He has an ally in Augustine. But the relating of this religious theme to phenomenology seems to me of doubtful value. Most efforts to describe the subjective order bog down because our language is an objective one. Echoing Augustine, Wild tells us: do not look outward to the sky and sea and earth, with all their changing inhabitants; look to the riches within yourself. What do Wild and Augustine find therein? The sky and sea and earth. A *Lebenswelt* is still a *Welt*. In all fairness, there are other contents of consciousness, God and one's own soul. I do not think that phenomenology has improved on Augustine's reports on these spiritual dimensions of personality.

VERNON J. BOURKE
Saint Louis University

DEMOGRAPHIC YEARBOOK, 1958. By United Nations' Department of Economic and Social Affairs. Tenth Edition. Special Topic: Marriage and Divorce Statistics. International Documents Service, Columbia University Press. viii, 541 pp. \$6.50, paper; \$8.00, cloth.

STATISTICAL YEARBOOK, 1958, Tenth Edition. By United Nations' Department of Economic and Social Affairs. International Documents Service, Columbia University Press. 612 pp. \$6.50, paper; \$8.00, cloth.

This tenth volume in the series of highly useful demographic yearbooks prepared by the United Nations is of particular interest, since it is the first time that the series has featured the statistics of marriage and divorce as a special topic. Several new

items include: various mortality rates for 116 countries, estimated aggregate birth and death rates for the world and its regions and a new code to aid in evaluating current population estimates.

In addition to its usual features, the tenth volume of the Statistical Yearbook has added a useful chapter summarizing trends in world production of primary products and manufactured goods and has made helpful additions to the chapters on external trade and international economic aid.

GENERAL SOCIOLOGY. By Nicholas S. Timasheff, Paul W. Facey, S.J., and John C. Schlereth. Bruce, Milwaukee. xiv, 454 pp. \$4.50

A third co-author, a deeper and more extensive treatment, auxiliary readings, more sophisticated and helpful student aids, and a more sprightly publishing job characterize this revision of an already widely used textbook. Though the original *Sociology: An Introduction to Sociological Analysis* by Professor Timasheff and Father Facey was good, this augmented and revised edition is incomparably better. Only 50 pages longer than its forerunner, its text is increased by 25 per cent through more compact printing. The Bruce Publishing Company has done well both in the printing and in keeping the price reasonable.

The peculiar and attractive features of Professor Timasheff & Co.'s approach to sociological analysis are manageable simplicity, scientific objectivity, logical consistency, suitable illustrations from common experience, and a professionally accepted conceptual framework. As he used to profess in his Fordham classes, so does Professor Timasheff maintain in his book that science must proceed from the known to the unknown. Therefore he rigorously excludes sociological dependence on psychological theories still battling for acceptance. On the other hand, this revision includes a new section—the relatively brief Part III—on culture, anthropology's contribution to sociology. The inclusion was wise, and Professor Schlereth's coordination of it with the rest of the text is apt.

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Omitted are several topics treated in many other general sociology texts, for example, man's biological origins and components, society's physical environment (the ecological factor) and population components (the demographic factor), publics and communication, the problems of personal and social disorganization, social movements and reorganization. Both theoretical and practical reasons can be adduced for including such topics but our authors would argue that they only clutter up the prem-

ises of introductory analysis and distract from the main concepts. For students who take only one course in social science this exclusion may not be very profitable; for those who are building a firm foundation for future development the recipe of our colleagues from Fordham, Holy Cross and St. Peter's (the author's respective academic homes) is enthusiastically prescribed.

JOSEPH B. SCHUYLER, S.J.
College of Philosophy and Letters
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LETTERS

Catholic Social Action in the American Environment (Cont'd)

It seems to me that the editor's "Answers" in the November issue leave room for a few more questions.

For example, I agree that the "apostle of social justice" needs facts, and that he needs to get them straight. But I wonder. Does the editor apply this same standard to those who may be less concerned about the need for reform than apostles usually are? He attaches some significance, I notice, to the statement by Professor Corrigan that Americans want progress. Perhaps they do, but where is the evidence to support such optimism?

How many Americans want progress? What kind of progress do they want? Do they want as much progress as our technology permits? Do they want progress for everyone, or just for themselves? And finally, are they willing to make the sacrifices necessary for this progress?

Just as important as facts are the conclusions drawn from them. I do not pretend to know whether or not the editor is engaged in "a love affair with American capitalism," but some of his conclusions bear evidence of a blinding friendship. Take this example in the November issue: "There are inequalities of income due to factors other than skill; these inequalities are not alleviated by economic mechanisms—unless we are all to live off a common government dole."

Surely the editor has heard of the economic mechanism commonly referred to as a progressive income tax. Does he mean to suggest that the use of such a tax as a means of reducing inequalities in the distribution of income necessarily results in everyone having to live off the government? I doubt that our experience with this mechanism justifies such a sweeping conclusion.

Like John Cort, I fail to understand the editor's distinction between social and economic problems. Does it result, perhaps, from the inadequate, if not misleading, definition of an economy as "an arrangement of material goods" which appeared in the September issue? Either directly or indirectly, material goods (and services, incidentally) are produced by human beings for human beings. Economics, therefore, is properly classified as a branch of the social sciences, and any attempt to draw a clear line of demarcation between economic problems and other types of social problems in the age in which we live seems highly unrealistic.

As for the editor's troublesome phrase regarding "the tolerable order of justice" in our society, I can certainly say that my objections to it do not reflect resentment at his argument that the application of Catholic social principles to the American scene leaves something to be desired. Indeed, I consider his remarks on this subject very timely.

My objections stem, rather, from a disturbing awareness of the inadequacies of existing statistics on economic well-being. How much do we know about the people in our society who daily find themselves in intolerable or unjust (define these terms as you will) situations? How much do we know about why these situations exist, how they effect the human beings involved, or what remedies are needed?

Closely related to this is the editor's question, "What is the basis for the unspoken supposition that the more generous minded a person is, the more enamored of social justice, the more economic injustice he will find rampant in contemporary American society?" Could it be that such a person simply opens his eyes and looks about him? Could it be that he sees enough examples of this injustice to feel that our social problems are more serious than some would have us think?

As a final comment, let me say that I did not overlook President Thorman's expression of hope that NCSAC might "ultimately arrive at some answers" to society's problems. I suggest, though, that unless the Catholic social action movement can do more than this, it does not face the "bright and exciting future" he pictures. Today's questions will not wait that long for answers.

T. HARRY MCKINNEY

Michigan State University
East Lansing, Michigan

Farm Subsidies

After reading Professor James Brown's letter in the last issue of *SOCIAL ORDER*, particularly his assertion that "we need not subsidize our farmers today," I have a few questions to ask of him and others who are of the same opinion regarding farm subsidies.

1. Is he opposed to all forms of subsidies or only to farm subsidies?

2. If the former, why does neither he nor very few others who write for this magazine ever denounce the huge subsidies to the mail order catalog people, the magazines with their special mailing privileges,

the metals and mining industries, the aircraft and airline companies, the oil industry with its 27 per cent depletion allowance, the electric power companies with their enormous tax write-offs, etc., etc. These will add up to quite a few billion dollars more than the \$9 billion the government has invested in so called "surplus" food. No investment is more important to our national well-being than a guaranteed supply of adequate nutrition.

3. If the latter, then what is so immoral and reprehensible about subsidizing farmers and so virtuous and praiseworthy about subsidizing any other segment of our national economy? Is it that Prof. Brown and many other Catholic spokesmen are so hopelessly uninformed, or have fallen prey to the incantations of the Public Relations spielers of American industry?

These are questions that need to be faced and answered every time that someone wants to solve the farm problem by abolishing subsidies, and abandon the farmers to the free market when nearly everything he buys comes from an administered market. Anyone who is hot and eager for a free market ought for a start to try to restore one to the steel, automobile and drug industry. When he has accomplished that, he can then turn to the question of a free market for agriculture.

The ills that trouble the farmers today constitute a terribly complex problem that demands great wisdom, skill and research before it will ever be solved equitably. Meanwhile let the urban consumer take consolation from the fact that food prices are the most stable factor in the ever rising cost-of-living index, that the family food basket costs less today than it did ten years ago (a drop is predicted for 1960) and that the farmer's share of the food dollar is lower now than it has been at any time in the past 20 years. If that is the effect of farm subsidies, then Prof. Brown with the rest of America has got quite a bargain and instead of complaining ought to keep real quiet about it.

In conclusion, let me say that I enjoyed the articles on Migrant Labor and on Agricultural Changes very much and am grateful for them.

(REV.) VINCENT J. HOPE
Litchfield, Minn.



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